

## EXHIBIT 3

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EXHIBITS: 9 to 10

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

Civil Action No. 4:18-cv-06753-PJH

In Re:

RIPPLE LABS, INC.  
LITIGATION

\_\_\_\_\_  
  
This Document Relates To:

ALL ACTIONS

VIDEOTAPED DEPOSITION OF STEVEN P.  
FEINSTEIN, called as a witness on behalf of  
the Defendants, pursuant to the applicable  
provisions of the Federal Rules of Civil  
Procedure, before Jeanette N. Maracas,  
Registered Professional Reporter and Notary  
Public in and for the Commonwealth of  
Massachusetts, at the Offices of Morgan,  
Lewis & Bockius, One Federal Street, Boston,  
Massachusetts, on Friday, January 20, 2023,  
commencing at 9:41 a.m.

1	APPEARANCES:	1	PROCEEDINGS	09:40:39
2		2	VIDEOGRAPHER: We are on the record.	09:40:39
3	SUSMAN GODFREY, LLP	3	This is the videographer speaking, Shawn	09:41:46
4	By: Nicholas N. Spear, Esq.	4	Budd with Veritext Legal Solutions. Today's	09:41:48
5	1900 Avenue of the Stars	5	date is January 20, 2023, and the time is	09:41:51
6	Los Angeles, CA 90067	6	9:41 a.m. We are here at the offices of	09:41:55
7	For the Lead Plaintiff.	7	Morgan Lewis, Boston, Massachusetts to take	09:41:59
8	Nspear@susmangodfrey.com	8	the video deposition of Dr. Steven Feinstein	09:42:02
9		9	in the matter of Ripple Labs, Inc.	09:42:06
10	KING & SPALDING, LLP	10	litigation.	09:42:09
11	By: Andrew Michaelson, Esq.	11	Will counsel please introduce	09:42:10
12	By: Luke N. Roniger, Esq. (Texas)	12	themselves for the record.	09:42:11
13	By: Jared Lax, Esq. (via Zoom)	13	MR. SPEAR: Nick Spear, Susman	09:42:13
14	1185 Avenue of the Americas	14	Godfrey for lead plaintiff, Bradley Sostack.	09:42:16
15	New York, NY 10036	15	MR. MICHAELSON: Andrew Michaelson	09:42:20
16	For the Defendants.	16	from King & Spalding representing defendants,	09:42:21
17	Amichaelson@kslaw.com	17	and joined by my colleague, Luke Roniger,	09:42:25
18	Lroniger@kslaw.com	18	also from King & Spalding in person. My	09:42:29
19		19	colleague, Jared Lax, also from King &	09:42:30
20		20	Spalding, is attending remotely and Ana	09:42:35
21		21	Guardado, in-house counsel at Ripple, is	09:42:40
22		22	also joining remotely.	09:42:42
23		23	VIDEOGRAPHER: The court reporter	09:42:43
24		24	today is Jeanette Maracas. Will you please	09:42:44
25		25	swear in the witness.	09:42:47
	Page 2		Page 4	
1	INDEX	1	STEVEN P. FEINSTEIN	
2	Testimony of: Direct Cross	2	A witness called for examination	
3	Steven P. Feinstein	3	by counsel for the Defendants, having been	
4	(by Mr. Michaelson) 5	4	first duly sworn, was examined and testified	
5		5	as follows:	
6	EXHIBITS	6	DIRECT EXAMINATION	
7	No. Description Page	7	BY MR. MICHAELSON:	09:43:06
8		8	Q. Good morning, Dr. Feinstein. My name is	09:43:08
9	Exhibit 9 Deposition notice. 19	9	Andrew Michaelson from King & Spalding	09:43:18
10	Exhibit 10 Exhibit 62, Expert	10	representing defendants. How are you today?	09:43:22
11	Report of Steven P.	11	A. Fine, thank you.	09:43:24
12	Feinstein, 11/18/22. 24	12	Q. Let me go over a few groundrules that should	09:43:25
13		13	help make today go more smoothly. You may	09:43:27
14		14	be familiar with them, but I'll go through	09:43:28
15		15	them nonetheless.	09:43:29
16		16	First, do you understand you're	09:43:31
17		17	under oath just as you would be in a	09:43:32
18		18	courtroom at trial, is that correct?	09:43:34
19		19	A. Yes.	09:43:37
20		20	Q. And you understand that we have a court	09:43:37
21		21	reporter who is taking down every word that	09:43:39
22		22	you and I say?	09:43:41
23		23	A. Yes.	09:43:42
24		24	Q. Is there any reason why you can't give	09:43:42
25		25	complete truthful testimony today?	09:43:47
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1 A. No. 09:43:48	1 documents, my report and these others. 09:46:20
2 Q. Okay. I'll ask that you let me finish 09:43:49	2 Q. Okay. So aside from what's listed in your 09:46:22
3 my question before you answer so that we 09:43:52	3 report and what you've mentioned already 09:46:26
4 don't talk over each other so that the court 09:43:55	4 specifically this morning, you can't think 09:46:28
5 reporter can be sure to take down every 09:43:58	5 of any other document you reviewed in 09:46:31
6 word. Is that okay? 09:44:00	6 preparation for today? 09:46:32
7 A. Yes. 09:44:02	7 A. Correct. 09:46:33
8 Q. If you need to take a break, let me know. 09:44:02	8 Q. Okay. And the meetings with counsel, there 09:46:34
9 I'll likely ask that you completely answer 09:44:08	9 was one yesterday in person and there was a 09:46:40
10 any question that's pending before we break, 09:44:10	10 remote meeting about a week prior? 09:46:42
11 but aside from that, we can generally 09:44:13	11 A. That's correct. 09:46:44
12 accommodate. 09:44:15	12 Q. Did you talk with anyone other than your 09:46:45
13 A. Okay. 09:44:16	13 counsel in preparation for today? 09:46:48
14 Q. So I'm going to ask you a few questions 09:44:17	14 A. Yes. 09:46:51
15 about what you did to prepare, and I'm not 09:44:22	15 Q. Who did you speak with? 09:46:51
16 asking you for the substance of any 09:44:24	16 A. Members of my staff at Crowninshield 09:46:53
17 communications you had with counsel in the 09:44:26	17 Research. 09:46:59
18 matter. So setting aside the substance 09:44:28	18 Q. What are their names? 09:46:59
19 of any of communications you've had with 09:44:31	19 A. Dan Bettencourt, Alex Xuang and Mark McKew. 09:47:00
20 counsel, can you describe what you did to 09:44:33	20 Those are the folks I spoke with about this 09:47:08
21 prepare for today's deposition. 09:44:35	21 case. 09:47:10
22 MR. SPEAR: I'll just, consistent 09:44:37	22 Q. Did they help prepare your report? 09:47:11
23 with what he just said, please don't disclose 09:44:39	23 A. Yes. 09:47:15
24 any communications that we had. Go ahead. 09:44:42	24 Q. Did they draft it? 09:47:15
25 A. Well, I read my report. I read or reviewed 09:44:44	25 A. No. 09:47:19
Page 6	Page 8
1 the documents that are listed in my report. 09:44:48	1 MR. SPEAR: Objection to the extent 09:47:19
2 I also read a few other documents, some 09:44:52	2 I don't think we discussed any drafts. 09:47:22
3 of which were not listed in the documents 09:44:55	3 MR. MICHAELSON: I'm not asking for 09:47:24
4 considered exhibit in my report, including 09:44:59	4 the substance of anything. I'm just asking 09:47:25
5 the mediation statements produced in this 09:45:03	5 if his staff drafted the report. 09:47:27
6 case. Essentially that's it as far as 09:45:08	6 MR. SPEAR: Go ahead. 09:47:29
7 documents. 09:45:13	7 A. Well, they assisted me, but it's my words, 09:47:30
8 I looked at the interrogatory 09:45:16	8 my writing, my opinions. 09:47:33
9 responses and questions that have been 09:45:18	9 Q. Aside from communications with counsel and 09:47:35
10 produced and prepared. I met yesterday with 09:45:22	10 your staff, did you speak with anyone else 09:47:38
11 plaintiff's counsel and we had a virtual 09:45:28	11 in preparation for today? 09:47:40
12 meeting over Zoom, I believe, about a week 09:45:33	12 A. There's one other person. Rawley Heimer 09:47:42
13 ago. 09:45:37	13 I've spoken to about this case. He's also on 09:47:47
14 Q. Okay. I'm going to break that down a little 09:45:40	14 my staff now and he's a finance professor. 09:47:50
15 bit. The documents that you reviewed in 09:45:44	15 Q. Where is he a professor? 09:47:52
16 preparation for today, you indicated that 09:45:45	16 A. He just recently moved from Boston College 09:47:56
17 you reviewed documents including the 09:45:50	17 to Arizona State. He works with our firm 09:47:59
18 mediation statements. Were there any other 09:45:53	18 routinely. 09:48:06
19 documents aside from mediation statements 09:45:55	19 Q. So, again, aside from counsel and staff, did 09:48:07
20 that you reviewed in preparation for today? 09:45:57	20 you speak with anyone else in preparation 09:48:09
21 A. Yes. The motion to dismiss order. I believe 09:46:00	21 for today? 09:48:11
22 it was a motion to dismiss order. I think 09:46:07	22 A. No. 09:48:11
23 that is listed in my docs reviewed and relied 09:46:10	23 Q. Did you check out any social media in 09:48:11
24 upon list. I can't think of any others as I 09:46:14	24 preparation for today? 09:48:21
25 sit here now. So about half a dozen 09:46:18	25 A. No, no. 09:48:26
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<p>1 Q. Did you read any news articles in preparation 09:48:28</p> <p>2 for today other than those listed in your 09:48:34</p> <p>3 report? 09:48:36</p> <p>4 A. Well, I keep abreast of the financial news 09:48:37</p> <p>5 in general, not for purposes of preparing 09:48:41</p> <p>6 for this case, and in the news there have 09:48:44</p> <p>7 been articles about Ripple and XRP over the 09:48:48</p> <p>8 course of the last year which I read, but 09:48:53</p> <p>9 just in the general course of my business 09:48:56</p> <p>10 both as a consultant and as a professor, 09:48:59</p> <p>11 not specifically to prepare for this case. 09:49:02</p> <p>12 Q. In what publications did you see these 09:49:04</p> <p>13 articles about Ripple and XRP? 09:49:08</p> <p>14 A. Law 360 primarily, but as you know, Ripple 09:49:09</p> <p>15 has been in the news, in the Wall Street 09:49:14</p> <p>16 Journal. That's what I know for sure. 09:49:19</p> <p>17 There may have been other places I've seen 09:49:21</p> <p>18 articles covering similar content and events. 09:49:23</p> <p>19 Q. So you recall seeing articles about Ripple 09:49:26</p> <p>20 and XRP in Law 360 and the Wall Street 09:49:30</p> <p>21 Journal. Any other publications? 09:49:35</p> <p>22 A. That's what -- I don't recall specifically 09:49:36</p> <p>23 other places, but those two I do recall 09:49:37</p> <p>24 specifically. 09:49:40</p> <p>25 Q. What articles do you recall seeing about 09:49:41</p> <p style="text-align: right;">Page 10</p>	<p>1 of the case, but I did look to see who are 09:51:10</p> <p>2 the experts who filed reports in the SEC 09:51:13</p> <p>3 action. I may have skimmed some reports. 09:51:17</p> <p>4 I didn't read any of those reports carefully. 09:51:21</p> <p>5 Q. Who do you recall being the experts in the 09:51:24</p> <p>6 SEC case? 09:51:33</p> <p>7 A. I recall that Daniel Fischel was involved 09:51:35</p> <p>8 and Alan Farrell. I don't recall the other 09:51:39</p> <p>9 names, but I do recall there were about 09:51:48</p> <p>10 five reports that were linked to articles 09:51:51</p> <p>11 that I had seen in the press. 09:51:55</p> <p>12 Q. Did you read the Fischel report? 09:51:58</p> <p>13 A. I believe I opened it, but I don't recall 09:52:01</p> <p>14 anything of the content. I may have just 09:52:05</p> <p>15 looked to see what side he was on. I opened 09:52:08</p> <p>16 the report. I don't recall reading it. 09:52:11</p> <p>17 Q. Which side was he on? 09:52:14</p> <p>18 A. I don't even remember. 09:52:16</p> <p>19 Q. How about Alan Farrell, did you read his 09:52:17</p> <p>20 report? 09:52:19</p> <p>21 A. Same thing, I kind of just wanted to see, 09:52:19</p> <p>22 and I recall for sure that he was on the 09:52:22</p> <p>23 defense side. I don't remember what his 09:52:24</p> <p>24 opinions were. 09:52:26</p> <p>25 Q. And did you open -- I'm trying to get a 09:52:27</p> <p style="text-align: right;">Page 12</p>
<p>1 Ripple or XRP in Law 360? 09:49:44</p> <p>2 A. Coverage of the SEC action. 09:49:48</p> <p>3 Q. And what do you remember about those 09:49:50</p> <p>4 articles? 09:49:52</p> <p>5 A. As I sit here now, it's hard to tell. I 09:49:54</p> <p>6 mean, not much. That there's this action, 09:49:59</p> <p>7 what areas are the most contentious being 09:50:04</p> <p>8 adjudicated in those actions, what the SEC's 09:50:09</p> <p>9 position is and what Ripple's position is 09:50:13</p> <p>10 on these questions. 09:50:15</p> <p>11 Q. What areas do you recall them describing as 09:50:16</p> <p>12 the most contentious? 09:50:20</p> <p>13 A. Whether or not XRP tokens are a security. 09:50:22</p> <p>14 Q. So you understand that's an issue, that's a 09:50:29</p> <p>15 contentious issue in the SEC action? 09:50:33</p> <p>16 A. I do understand that. 09:50:35</p> <p>17 Q. Is that also at issue in this case? 09:50:36</p> <p>18 A. I believe it is, although it's not one that 09:50:39</p> <p>19 I've expressed an opinion about. 09:50:44</p> <p>20 Q. Did you read and review anything else in 09:50:46</p> <p>21 preparation for today's deposition aside 09:50:58</p> <p>22 from what you've already discussed? 09:51:00</p> <p>23 A. Again, it's hard to separate what I read 09:51:01</p> <p>24 and reviewed for general knowledge purposes 09:51:06</p> <p>25 versus what I read or reviewed for purposes 09:51:09</p> <p style="text-align: right;">Page 11</p>	<p>1 sense of the other reports. Did you open 09:52:32</p> <p>2 them, skim them? 09:52:34</p> <p>3 A. No, I don't recall that I did, just like 09:52:36</p> <p>4 the listing, the links. 09:52:40</p> <p>5 Q. Any other documents that you reviewed in 09:52:45</p> <p>6 preparation for today? 09:52:49</p> <p>7 A. No. 09:52:50</p> <p>8 Q. Did you -- and anyone, again, aside from 09:52:52</p> <p>9 counsel, aside from your staff who you spoke 09:52:59</p> <p>10 with in preparation for today? 09:53:00</p> <p>11 A. No. 09:53:03</p> <p>12 Q. Did you speak with any purchasers of XRP in 09:53:04</p> <p>13 preparation for today? 09:53:10</p> <p>14 A. No. 09:53:10</p> <p>15 Q. Have you ever purchased XRP? 09:53:11</p> <p>16 A. No. 09:53:13</p> <p>17 Q. Again, circling back to social media, did 09:53:14</p> <p>18 you read any posts on social media in 09:53:22</p> <p>19 preparation for today? 09:53:27</p> <p>20 A. No. 09:53:28</p> <p>21 Q. Did you check out Ripple's website in 09:53:29</p> <p>22 preparation for today? 09:53:35</p> <p>23 A. Not in preparation for this deposition, 09:53:36</p> <p>24 but at one point between the filing of my 09:53:40</p> <p>25 report and when I began to prepare for 09:53:43</p> <p style="text-align: right;">Page 13</p>

1 the deposition. 09:53:46	1 Q. Did you review or did you visit Ripple's 09:55:42
2 Q. You went to Ripple's website? 09:53:48	2 website prior to submitting your report in 09:55:48
3 A. Correct. 09:53:50	3 this case? 09:55:50
4 Q. About how long did you spend there? 09:53:51	4 A. No. 09:55:50
5 A. Minutes. 09:53:53	5 Q. How about websites associated with crypto 09:55:50
6 Q. Fewer than ten? 09:53:56	6 exchanges? Did you visit any of those 09:55:54
7 A. Yes. 09:53:59	7 websites, let's say, prior to submitting 09:55:56
8 Q. Fewer than five? 09:53:59	8 your report in this case? 09:56:01
9 A. I'm not sure. Maybe between five and ten. 09:54:01	9 A. Yes, but not for purposes of preparing 09:56:02
10 Q. What do you recall seeing on Ripple's 09:54:06	10 the report. 09:56:05
11 website? 09:54:10	11 Q. I see. Which exchanges, websites do you 09:56:06
12 A. Well, really what I was looking to see is 09:54:10	12 recall visiting prior to submitting your 09:56:11
13 if their website was still up and running, 09:54:12	13 report? 09:56:13
14 and I confirmed that it was at the time I 09:54:16	14 A. Coinbase. 09:56:16
15 looked at it, which was sometime between 09:54:20	15 Q. Any others? 09:56:16
16 the time filing of the report and earlier 09:54:22	16 A. No. 09:56:19
17 than two weeks ago. 09:54:25	17 Q. Approximately when did you visit the Coinbase 09:56:20
18 Q. Why did you check out Ripple's website to 09:54:26	18 website? 09:56:23
19 see if it was up and running? 09:54:29	19 A. I think going back, at least a year ago and 09:56:24
20 A. Curiosity. If it wasn't, I think that would 09:54:31	20 a number of times since then. 09:56:35
21 have been relevant to how this case plays 09:54:34	21 Q. A number of times since then? 09:56:38
22 out, and I wanted to know that. 09:54:39	22 A. That's right. 09:56:41
23 Q. Did you have some reason to believe that 09:54:40	23 Q. And and why did you first visit the Coinbase 09:56:41
24 Ripple had gone out of business? 09:54:43	24 website? 09:56:45
25 A. I had no reason to believe that. I do recall 09:54:45	25 A. Well, keeping abreast of developments in the 09:56:45
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1 from the complaint, the complaint side or 09:54:48	1 financial markets is part of what I do 09:56:50
2 even the complaint or some documentation 09:54:53	2 as a professor, and this is a burgeoning 09:56:52
3 prepared by plaintiff's counsel that the 09:54:55	3 field. I was reading a lot about 09:56:56
4 website had changed, so I just wanted to see 09:55:00	4 cryptocurrency in both the popular press, 09:56:58
5 what was there and if it was still there. 09:55:04	5 the financial press and academic 09:57:02
6 MR. SPEAR: I don't know what 09:55:06	6 publications. I just wanted to see for 09:57:04
7 document you're referring to, but just make 09:55:07	7 myself what was there and what the experience 09:57:07
8 sure when -- you shouldn't be discussing 09:55:10	8 would be for investors and consumers. 09:57:10
9 any -- if there's personal communications we 09:55:11	9 Q. So did you visit -- the first time you 09:57:15
10 had about this, you shouldn't be discussing 09:55:13	10 visited the Coinbase website, was it in 09:57:19
11 those, but if you're referring to like a 09:55:13	11 connection with this litigation? 09:57:22
12 motion we filed or a brief, then that's fine. 09:55:13	12 A. No, not at all. 09:57:23
13 THE WITNESS: It was a motion, brief 09:55:19	13 Q. Okay. You said you visited a number of 09:57:24
14 or maybe a mediation statement. I don't 09:55:21	14 times since then. Did you ever visit it 09:57:27
15 recall which. 09:55:23	15 in connection with this litigation 09:57:31
16 Q. And just to make sure I'm clear on the timing 09:55:23	16 specifically? 09:57:33
17 of this, you visited the website, this was 09:55:25	17 A. No. 09:57:33
18 after you submitted your report in this case, 09:55:28	18 Q. Do you have an account with Coinbase? 09:57:34
19 but prior to today's deposition? 09:55:31	19 A. Yes, yes. 09:57:37
20 A. Even prior to two weeks ago. 09:55:32	20 Q. Have you traded digital assets there? 09:57:37
21 Q. And prior to two weeks ago? 09:55:34	21 A. I did purchase one small amount, again, 09:57:40
22 A. That's right. 09:55:35	22 to experiment with what the experience is 09:57:44
23 Q. So between the time when you submitted your 09:55:35	23 like for an investor, and I did that as a 09:57:47
24 report in this case and two weeks ago? 09:55:37	24 finance professor to keep abreast of 09:57:49
25 A. That's right. 09:55:41	25 developments. 09:57:54
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<p>1 Q. I see. Have you visited the website of 09:57:54</p> <p>2 any other crypto exchange aside from 09:57:58</p> <p>3 Coinbase? 09:58:00</p> <p>4 A. I may have. I don't recall specifically, 09:58:02</p> <p>5 but I may have. Not that I recall 09:58:04</p> <p>6 specifically as I sit here now. 09:58:08</p> <p>7 Q. So you may have, but you don't recall today? 09:58:10</p> <p>8 A. Correct. 09:58:12</p> <p>9 Q. Okay. 09:58:12</p> <p>10 A. Names that appear -- for example, what I'm 09:58:17</p> <p>11 referring to here is if I read an article 09:58:20</p> <p>12 and they cite Gemini, for example, I may have 09:58:22</p> <p>13 Googled quickly Gemini and seen what comes 09:58:25</p> <p>14 up, but I did that again not in connection 09:58:30</p> <p>15 with this case. 09:58:31</p> <p>16 Q. And I'm not prying into financial details 09:58:32</p> <p>17 here, but I do just want to ask what your 09:58:38</p> <p>18 experience is in trading digital assets, and 09:58:41</p> <p>19 you said that you bought some small amount 09:58:44</p> <p>20 of digital assets on Coinbase. Do you still 09:58:47</p> <p>21 own digital assets today? 09:58:51</p> <p>22 A. No. 09:58:53</p> <p>23 Q. Approximately how many trades in digital 09:58:54</p> <p>24 assets have you made? 09:59:00</p> <p>25 A. Two, a purchase and a sale of Ethereum. 09:59:01</p> <p style="text-align: right;">Page 18</p>	<p>1 not really pursuant to. 10:01:07</p> <p>2 Q. Fair enough. I'd like to direct your 10:01:08</p> <p>3 attention to Page 3 of the document which is 10:01:10</p> <p>4 the request for production of documents. 10:01:12</p> <p>5 A. Okay. 10:01:15</p> <p>6 Q. And have you seen these requests before? 10:01:16</p> <p>7 A. Did you say these requests? 10:01:23</p> <p>8 Q. Have you seen this set of document requests 10:01:24</p> <p>9 before? 10:01:27</p> <p>10 A. This exhibit, yes, I've seen this document. 10:01:27</p> <p>11 Q. Did you undertake to collect documents in 10:01:30</p> <p>12 response to this request? 10:01:33</p> <p>13 A. I did. 10:01:35</p> <p>14 Q. Was there any document that you're aware 10:01:35</p> <p>15 of that are responsive to these requests 10:01:43</p> <p>16 that you didn't provide to your counsel for 10:01:44</p> <p>17 production in this case? 10:01:46</p> <p>18 MR. SPEAR: Objection. I'll just 10:01:48</p> <p>19 note that we objected to certain documents or 10:01:49</p> <p>20 certain parts of these as not being things 10:01:53</p> <p>21 that we were going to produce. Are you 10:01:55</p> <p>22 asking -- I'm not sure what you're asking. 10:01:57</p> <p>23 MR. MICHAELSON: I was asking if 10:02:00</p> <p>24 he's aware of something that's responsive to 10:02:01</p> <p>25 these that he didn't share with counsel, but 10:02:03</p> <p style="text-align: right;">Page 20</p>
<p>1 Q. So a purchase and a sale of Ethereum. 09:59:06</p> <p>2 Okay. Have you visited the XRP Ledger in 09:59:10</p> <p>3 preparation for today's deposition? 09:59:29</p> <p>4 A. No. 09:59:32</p> <p>5 Q. Did you visit or interact at all with the 09:59:32</p> <p>6 XRP Ledger in preparation for submitting 09:59:38</p> <p>7 your report in this case? 09:59:41</p> <p>8 A. No. 09:59:42</p> <p>9 MR. MICHAELSON: I'd like to mark 09:59:47</p> <p>10 as Exhibit 9... 09:59:48</p> <p>11 (Exhibit 9 marked for 10:00:13</p> <p>12 identification.) 10:00:15</p> <p>13 Q. I handed you a document marked Defense 10:00:21</p> <p>14 Exhibit 9 which is titled on the first page 10:00:31</p> <p>15 Defendants' Notice of Deposition of Steven P. 10:00:33</p> <p>16 Feinstein with a Request For Documents. 10:00:36</p> <p>17 It's a four-page exhibit. Are you familiar 10:00:40</p> <p>18 with this document? 10:00:45</p> <p>19 A. Yes. 10:00:47</p> <p>20 Q. You've seen it before? 10:00:47</p> <p>21 A. Yes. 10:00:49</p> <p>22 Q. Do you understand that you're appearing here 10:00:50</p> <p>23 today pursuant to this notice of deposition? 10:00:56</p> <p>24 A. I'll take your word for it. I was asked to 10:01:00</p> <p>25 appear here and that's why I'm here. It's 10:01:04</p> <p style="text-align: right;">Page 19</p>	<p>1 I understand the nature of your objection. 10:02:09</p> <p>2 To be honest, we just got the production 10:02:12</p> <p>3 less than, I think, 48 hours ago and we've 10:02:15</p> <p>4 transferred to our vendor 24 hours ago and 10:02:17</p> <p>5 some of it we haven't been able to access 10:02:21</p> <p>6 yet, so we're sitting here today not entirely 10:02:24</p> <p>7 sure what it fully contains, the production, 10:02:28</p> <p>8 because it was made so close in time to 10:02:30</p> <p>9 the deposition. I guess I'll focus on No. 6. 10:02:32</p> <p>10 Is there an objection to No. 6? 10:02:38</p> <p>11 MR. SPEAR: I don't believe so, 10:02:40</p> <p>12 other than just I don't think we found 10:02:42</p> <p>13 anything. Go ahead. 10:02:43</p> <p>14 Q. I'll direct your attention to Request No. 6. 10:02:45</p> <p>15 A. Yes. 10:02:53</p> <p>16 Q. No. 6 is a request for all of your public 10:02:53</p> <p>17 statements, publications, writings, notes 10:02:56</p> <p>18 slides or presentations relating to XRP, 10:02:58</p> <p>19 Ripple, cryptocurrency or any other 10:03:02</p> <p>20 blockchain technology. Do you see that? 10:03:05</p> <p>21 A. I do. 10:03:06</p> <p>22 Q. Do you have any documents responsive to 10:03:06</p> <p>23 this request? 10:03:08</p> <p>24 A. Depends on how one interprets "relating." I 10:03:09</p> <p>25 interpreted "relating" to mean that it 10:03:13</p> <p style="text-align: right;">Page 21</p>



1 specifically mentions these words, "XRP, 10:03:16	1 A. Again, it depends on -- I'm not a lawyer 10:06:03
2 Ripple, cryptocurrency or any other 10:03:24	2 so it depends on how one is defining 10:06:06
3 blockchain technology," and I believe I have 10:03:27	3 "responsive to," and that was a decision 10:06:09
4 no such statements, publications, writings 10:03:31	4 and determination made by counsel. Let me 10:06:12
5 that specifically mention these words or 10:03:37	5 elaborate, because I did not turn over to 10:06:17
6 topics, although, of course, these topics 10:03:39	6 counsel reports or testimony that's covered 10:06:19
7 are subsumed within the -- are covered within 10:03:42	7 by protective orders that preclude my 10:06:23
8 the field of financial economics in general. 10:03:46	8 making them public. 10:06:26
9 I didn't provide every statement that relates 10:03:50	9 Q. Okay. 10:06:27
10 to finance, but I believe that nothing was 10:03:53	10 A. But everything else I endeavored to collect 10:06:32
11 provided here because I have no statements 10:03:58	11 and provided to plaintiff's counsel. 10:06:36
12 and documentation that specifically cites 10:04:01	12 Plaintiff's counsel made a determination as 10:06:43
13 XRP or Ripple and so on. 10:04:04	13 to what to give to you, is my understanding. 10:06:44
14 Q. I see. So I understand you to be saying that 10:04:06	14 Q. Okay. 10:06:46
15 you have made public statements, publications 10:04:10	15 MR. SPEAR: Just for the record, 10:06:51
16 concerning finance, correct? 10:04:13	16 whatever information -- just so we don't 10:06:53
17 A. That's right, and finance applies to -- the 10:04:14	17 beat around the bush, whatever they gave us 10:06:56
18 analysis and study of finance applies to XRP 10:04:19	18 in response to No. 4 we just produced. We 10:06:56
19 and Ripple, but I didn't believe that's what 10:04:22	19 didn't share it beyond what they gave us. 10:06:59
20 you meant by this Statement 6 request. 10:04:24	20 MR. MICHAELSON: Okay. 10:07:03
21 Q. Okay. The publications, focusing on 10:04:26	21 MR. SPEAR: It's the same for No. 5. 10:07:18
22 publications for a moment. The publications 10:04:30	22 MR. MICHAELSON: Mark this No. 10. 10:07:26
23 that you've authored concerning finance don't 10:04:33	23 (Exhibit 10 marked for 10:07:28
24 mention XRP or Ripple, correct? 10:04:36	24 identification.) 10:07:29
25 A. That's correct. 10:04:39	25 Q. Before moving on to Exhibit 10, just a last 10:07:40
Page 22	Page 24
1 Q. They don't mention cryptocurrency? 10:04:40	1 question on Exhibit 9, request, document 10:08:10
2 A. Correct. 10:04:42	2 Request No. 6. I just want to make sure 10:08:15
3 Q. And they don't mention any other blockchain 10:04:43	3 that you do not have any notes, class notes 10:08:26
4 technology? 10:04:47	4 that mention XRP, Ripple, cryptocurrency 10:08:35
5 A. Again correct. 10:04:47	5 or any other blockchain technology? 10:08:39
6 Q. Do they mention digital assets? 10:04:48	6 A. Correct, not class notes. Again, 10:08:45
7 A. No. 10:04:50	7 specifically class notes, notes I use for 10:08:52
8 Q. Virtual currencies? 10:04:50	8 teaching, no. I believe I do not have any 10:08:55
9 A. To the best of my recollection, no. 10:04:52	9 that specifically mention XRP, Ripple or 10:09:01
10 Q. How about Bitcoin? 10:04:55	10 cryptocurrency. 10:09:05
11 A. No. 10:04:56	11 Q. Or any other blockchain technology? 10:09:07
12 Q. Ethereum? 10:04:56	12 A. Correct. 10:09:09
13 A. No. 10:05:00	13 Q. Slides, lecture outlines, do you have any 10:09:10
14 Q. I'd like to direct your attention to Request 10:05:00	14 slides or lecture outlines that mention XRP, 10:09:14
15 No. 4, all opinions, reports, testimony 10:05:33	15 Ripple, cryptocurrency or any other 10:09:17
16 and/or declarations you submitted that 10:05:39	16 blockchain technology? 10:09:21
17 pertain to damages in cases involving or 10:05:41	17 A. Correct. 10:09:22
18 related to state or federal securities 10:05:45	18 Q. Correct, you don't have any? 10:09:23
19 actions over the past ten years. Do you 10:05:48	19 A. I do not have those. 10:09:25
20 see that request? 10:05:50	20 Q. And the notes that -- you paused for a moment 10:09:27
21 A. I do. 10:05:50	21 on notes. Do you have some kind of notes 10:09:29
22 Q. Did you provide all documents responsive 10:05:51	22 other than class notes that mention XRP, 10:09:31
23 to this request to your counsel? 10:05:58	23 Ripple, cryptocurrency or other blockchain 10:09:34
24 MR. SPEAR: Objection. Subject to 10:06:00	24 technology? 10:09:37
25 our objections, but go ahead. 10:06:01	25 A. I'll tell you what I'm thinking. My 10:09:38
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1 hesitation was I believe in an exam, a 10:09:42	1 page says Exhibit 62 and the next page 10:12:17
2 midterm exam or a final exam I may have 10:09:45	2 identifies it as the expert report of 10:12:21
3 used Bitcoin as an example, and then I'm 10:09:49	3 Professor Steven P. Feinstein dated 10:12:24
4 thinking if I provide the answer key to 10:09:57	4 November 18, 2022 in this case. Do you 10:12:27
5 the exam to the students, is that considered 10:10:00	5 recognize this document? 10:12:30
6 class notes or not, I'm not sure. But I 10:10:02	6 A. I do. 10:12:31
7 think there may be an answer -- I didn't 10:10:04	7 Q. Is this the report that you've -- 10:12:31
8 interpret it this way when I responded to 10:10:07	8 A. It is. 10:12:34
9 the exhibit, but I certainly will if you 10:10:09	9 Q. I'll represent it's the report that you 10:12:34
10 think that's how it should be interpreted, 10:10:13	10 submitted in this case. So you mention 10:12:37
11 provide that, but I think there was an exam 10:10:15	11 in your teaching of your classes, you're a 10:12:42
12 question that mentioned Bitcoin and then 10:10:17	12 professor? 10:12:45
13 there would be a key that also mentions 10:10:21	13 A. That's right. 10:12:46
14 Bitcoin, but that's not, those aren't 10:10:23	14 Q. Where do you teach? 10:12:46
15 teaching notes. 10:10:25	15 A. Babson College. 10:12:47
16 Q. I understand. Do you remember what the 10:10:26	16 Q. How long have you been a professor there? 10:12:48
17 nature of the exam question was? 10:10:30	17 A. Since 1996. 10:12:50
18 A. Sure. It was derivatives of -- I think it 10:10:33	18 Q. Do you teach anywhere outside of Babson 10:12:51
19 was -- I think I had taken an old test 10:10:37	19 College? 10:12:57
20 question about buying a future contract or 10:10:39	20 A. No, not presently. 10:12:57
21 forward contract tied to some other 10:10:42	21 Q. And how would you describe sort of the 10:12:58
22 commodity, and then for the students I had 10:10:44	22 focus of your teaching? 10:13:02
23 last year just changed whatever commodity 10:10:47	23 A. I'm a finance professor so I teach in the 10:13:04
24 that was to Bitcoin. It was a question about 10:10:49	24 finance division, I teach finance courses. 10:13:08
25 how to price futures or forwards. 10:10:54	25 Within finance, my areas of concentration -- 10:13:11
Page 26	Page 28
1 Q. So moving to Exhibit 10 -- 10:10:56	1 finance is broadly divided into investments 10:13:15
2 A. Actually, I just want to be complete. 10:11:08	2 and corporate investments, industry and 10:13:18
3 I'm thinking now and, again, my thinking 10:11:10	3 field versus corporate finance and corporate 10:13:21
4 now is a little bit different from what 10:11:12	4 managerial decisions. I tend to specialize 10:13:24
5 my thinking was at the time, but I believe 10:11:15	5 in the investment side, and in the investment 10:13:27
6 in the syllabus for these classes that I 10:11:17	6 side my areas of research and teaching are 10:13:30
7 taught over the last couple of years, I 10:11:20	7 securities, stocks, bonds and derivatives. 10:13:35
8 do assign that the students can or must 10:11:21	8 Q. Do you publish in the field of finance? 10:13:45
9 write a term paper, there's a term project, 10:11:23	9 A. Yes. 10:13:53
10 and in the syllabus there's a list of 10:11:26	10 Q. So turning to your report on the second 10:13:54
11 suggested term paper topics or permissible 10:11:31	11 page, Paragraph 10, you write that you 10:13:59
12 term paper topics just to spur their 10:11:36	12 published in the field of finance and you 10:14:06
13 creativity, and there I might have said 10:11:40	13 list some articles. Are any of these 10:14:08
14 something about you may wish to investigate 10:11:41	14 articles about cryptocurrency? 10:14:11
15 futures, forwards and options that are 10:11:46	15 A. Not specifically. 10:14:15
16 tied to cryptocurrency, so the word 10:11:47	16 MR. SPEAR: I'll just object. It 10:14:17
17 "cryptocurrency" may be in my syllabus for 10:11:49	17 doesn't list articles. It lists places where 10:14:19
18 that reason. But, again, at the time 10:11:53	18 articles appeared. Go ahead. 10:14:24
19 responding to this production, I didn't 10:11:55	19 A. The answer is not specifically, although 10:14:24
20 think that that fit the definition of 10:11:56	20 cryptocurrency is an area of analysis and 10:14:27
21 statements, publications, writing notes, 10:11:59	21 research and study that falls within finance, 10:14:30
22 slides or presentations. 10:12:01	22 and my articles apply generally to finance. 10:14:33
23 Q. Thank you. So you should have in front 10:12:03	23 Q. So you're saying your articles are sort of 10:14:37
24 of you Exhibit 10, which is a copy of -- I'll 10:12:10	24 generally about finance and so principles 10:14:39
25 give you a moment to look at it. The first 10:12:15	25 articulated in those articles could apply to 10:14:42
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1 cryptocurrency? 10:14:45	1 A. I don't know. 10:17:52
2 A. Well said, yes. That's what I meant to say. 10:14:46	2 Q. Do you recall ever reviewing any? 10:17:52
3 Q. But they don't mention cryptocurrency? 10:14:48	3 A. No. 10:17:56
4 A. Correct. 10:14:52	4 Q. Did you review any in preparation for 10:17:57
5 Q. Okay. Is cryptocurrency, in your view, 10:14:53	5 today? 10:17:59
6 just like other assets that are invested in? 10:14:57	6 A. No. 10:17:59
7 MR. SPEAR: Objection, scope. 10:15:05	7 Q. Did you review any in preparation for 10:18:00
8 A. I wouldn't say "just like." I mean, there 10:15:07	8 preparing your report in this case? 10:18:02
9 are similarities and there are differences. 10:15:10	9 A. No. 10:18:06
10 Q. You'd agree that there's some differences 10:15:11	10 Q. I'd like to direct your attention to Page 10:18:06
11 between cryptocurrencies and other assets 10:15:14	11 10 of Exhibit 10. 10:18:40
12 that investors choose to invest in? 10:15:18	12 A. The page numbers at the bottom or the top 10:18:41
13 MR. SPEAR: Same objection. 10:15:20	13 of the page? 10:18:43
14 A. Sure, just as there's differences between 10:15:22	14 Q. The page numbers -- good question. The 10:18:44
15 stocks and bonds or bonds and derivatives. 10:15:25	15 page numbers at the bottom. 10:18:47
16 Q. Is a model to calculate profit or loss on 10:15:27	16 A. Okay. 10:18:47
17 an investment of stock the same as a model 10:15:43	17 Q. It's Exhibit 2. It lists your business 10:18:50
18 to calculate profit or loss on an investment 10:15:45	18 experience and then professional 10:18:55
19 in bonds? 10:15:49	19 designations. 10:18:57
20 MR. SPEAR: Objection, scope. 10:15:50	20 A. I'm there. 10:18:57
21 A. It really depends on the context and the 10:15:52	21 Q. Okay. So business experience, it lists 10:18:59
22 specifics. It can be or it might not be. 10:15:56	22 from 2008 to present, Crowninshield Financial 10:19:03
23 Q. Would the same be true for a model to 10:15:58	23 Research. What is that? 10:19:06
24 calculate profit or loss on an investment 10:16:05	24 A. That's a consulting firm that I founded 10:19:07
25 of cryptocurrency, which is to say it could 10:16:08	25 located in Brookline, Massachusetts. It's 10:19:13
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1 be the same or different as models to 10:16:11	1 a staff of analysts and experts and we 10:19:19
2 calculate profit or loss on investments 10:16:14	2 conduct financial research and analysis on 10:19:24
3 in stocks or bonds, depends on the 10:16:16	3 a contract basis with a focus primarily, 10:19:27
4 circumstances? 10:16:17	4 although not exclusively, in the area of 10:19:31
5 MR. SPEAR: Same objection. 10:16:18	5 forensic finance. 10:19:34
6 A. My answer is yes. 10:16:21	6 Q. Does this organization provide expert 10:19:35
7 Q. You mentioned that you had a CFA designation. 10:16:22	7 testimony and expert reports in support of 10:19:49
8 What is a CFA designation? 10:16:41	8 litigation? 10:19:51
9 A. CFA stands for Chartered Financial Analyst. 10:16:43	9 A. Yes. 10:19:51
10 It's the premier practitioner credential 10:16:48	10 Q. Would you say that that's the primary, its 10:19:52
11 among practicing financial professionals. 10:16:52	11 primary business? 10:19:55
12 It's awarded by the CFA Institute and 10:16:58	12 A. Yes. 10:19:56
13 that's what it is. It's awarded after the 10:17:03	13 Q. Is it its sole business? 10:19:56
14 candidate passes a series of three 10:17:08	14 A. No. 10:19:58
15 progressively more and more difficult exams, 10:17:13	15 Q. What percentage of its business would you 10:19:59
16 shows proficiency in mastering generally 10:17:15	16 say is providing expert testimony and 10:20:01
17 accepted principles in finance and has 10:17:19	17 reports? 10:20:03
18 sort of a requisite amount of time spent 10:17:22	18 A. Well, I guess I would need some clarification 10:20:04
19 working as a professional financial analyst. 10:17:25	19 on your question. Sometimes we are asked 10:20:18
20 Q. When did you obtain your CFA designation, 10:17:28	20 to prepare a plan of allocation in a case and 10:20:20
21 approximately? 10:17:33	21 that wouldn't be testimony or report. 10:20:23
22 A. It's in the exhibit on Page 10. 1998. 10:17:34	22 Q. Fair enough. What percentage of its business 10:20:26
23 Q. Has the CFA Institute issued any papers 10:17:42	23 would you say is in support of litigation? 10:20:28
24 or publications on the subject of 10:17:48	24 A. It varies from year to year. It's always 10:20:33
25 cryptocurrency? 10:17:50	25 more than 90 percent. It has recently all 10:20:39
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1	been much more, somewhere between 90 and	10:20:41	1	regression analysis, to determine whether	10:23:07
2	99 percent.	10:20:44	2	information has affected the valuation of	10:23:11
3	Q. And has it done any work at any time -- you	10:20:45	3	the security. This article addresses the	10:23:11
4	said it performs work on a contract basis,	10:20:51	4	problem with running an event study when	10:23:14
5	correct?	10:20:54	5	the period of interest has a change in	10:23:17
6	A. Yes.	10:20:54	6	volatility, and the example given in the	10:23:19
7	Q. Has it performed any work for any	10:20:54	7	paper is change of volatility caused by the	10:23:22
8	cryptocurrency exchange?	10:20:57	8	COVID pandemic. And it solves the problem	10:23:25
9	A. No.	10:20:59	9	and explains how one would nonetheless be	10:23:25
10	Q. Has it performed any work for any entity	10:20:59	10	able to determine what were the events or	10:23:31
11	in the crypto business?	10:21:08	11	announcements that impacted the security	10:23:35
12	A. No.	10:21:11	12	price and one could apply this methodology	10:23:38
13	Q. Then moving down to on this page, Papers	10:21:13	13	to a stock, a bond or digital assets.	10:23:41
14	and Publications, can you describe the list	10:21:19	14	Q. Does the paper explore in any way anything	10:23:45
15	here that follows under the heading Pages	10:21:26	15	that might be unique to the cryptocurrency	10:23:52
16	and Publications? What is this list?	10:21:29	16	space if one were trying to perform an event	10:23:54
17	A. These are my publications. On Page 10,	10:21:32	17	study on cryptocurrency?	10:23:58
18	these are publications since September 2013.	10:21:36	18	A. No, it doesn't focus on the specific	10:23:59
19	Q. And the list continues on the next page?	10:21:39	19	idiosyncracies of cryptocurrency or digital	10:24:04
20	A. Right.	10:21:43	20	assets.	10:24:08
21	Q. And how far back does it go? To the	10:21:43	21	Q. Let's move on to the second paper there.	10:24:08
22	beginning of time?	10:21:46	22	It's entitled Stock Price Reactivity to	10:24:10
23	A. I think so. 1987, yes.	10:21:47	23	Earnings Announcements: The Role of the	10:24:14
24	Q. Okay. Focusing on the more recent ones, am	10:21:51	24	Cammer/Krogman Factors. Does that have any	10:24:19
25	I correct that there are three papers and	10:21:58	25	application to crypto space?	10:24:33
Page 34			Page 36		
1	publications listed here since 2014?	10:22:01	1	MR. SPEAR: Objection, scope.	10:24:35
2	A. Yes.	10:22:07	2	A. It certainly could. The paper runs tests	10:24:36
3	Q. I've already asked whether your papers and	10:22:07	3	to see if characteristics and indicators	10:24:41
4	publications mention cryptocurrency, you	10:22:15	4	describing companies or stocks are related	10:24:47
5	said no, but you testified that they apply	10:22:19	5	to the propensity or frequency of the	10:24:51
6	generally to finance, and I'm wondering if	10:22:23	6	security moving significantly on certain	10:24:56
7	you could explain whether any of these three	10:22:26	7	announcement dates. It's more geared towards	10:25:01
8	publications that you've authored since 2014,	10:22:28	8	equities, but some of the concepts and	10:25:05
9	how many of them would apply to the crypto	10:22:33	9	principles and tools described would apply	10:25:08
10	space?	10:22:35	10	to any traded asset.	10:25:11
11	A. What do you mean by "apply"?	10:22:36	11	Q. The subject is how an asset price would	10:25:17
12	MR. SPEAR: Objection to form and	10:22:37	12	change in response to a public announcement?	10:25:21
13	scope.	10:22:38	13	A. Correct.	10:25:24
14	Q. How would they -- let's take the first one.	10:22:38	14	Q. When you say it provides general tools, that	10:25:25
15	So the first one is called Securities	10:22:42	15	might help and analyze that?	10:25:32
16	Litigation Event Studies in the COVID	10:22:42	16	A. Well, it takes a list of tools that are	10:25:36
17	Volatility Regime. Do you see that?	10:22:47	17	commonly used and assesses whether they are	10:25:38
18	A. Yes.	10:22:48	18	informative.	10:25:42
19	Q. Does that have an application to	10:22:48	19	Q. I see. And, again, there's no, nothing in	10:25:44
20	cryptocurrency?	10:22:51	20	that article that is applying those tools to	10:25:48
21	A. It could.	10:22:52	21	movement in the price of a cryptocurrency,	10:25:54
22	Q. Can you explain that?	10:22:53	22	correct?	10:25:56
23	MR. SPEAR: Objection, scope.	10:22:55	23	A. Specifically, the answer would be no.	10:25:58
24	A. Well, that article explains how one would	10:22:56	24	Q. And we'll just do one more and then move on.	10:26:00
25	run an event study, which is essentially a	10:23:01	25	The next article is called What a Solar	10:26:05
Page 35			Page 37		

<p>1 Eclipse has to do with Market Efficiency? 10:26:07</p> <p>2 A. I just want to correct that. The way I 10:26:10</p> <p>3 wanted to phrase that last answer was if you 10:26:13</p> <p>4 mean specifically, then the answer is no. 10:26:14</p> <p>5 Q. Okay. Again, how would your, the writing 10:26:17</p> <p>6 there, how might that apply to 10:26:24</p> <p>7 cryptocurrency? 10:26:32</p> <p>8 A. It's the same thing. It doesn't specifically 10:26:32</p> <p>9 address cryptocurrency. 10:26:33</p> <p>10 MR. SPEAR: I'll object to scope. 10:26:33</p> <p>11 Go ahead. 10:26:35</p> <p>12 A. The article about the solar eclipse and 10:26:36</p> <p>13 market efficiency does not mention digital 10:26:38</p> <p>14 assets and it doesn't apply specifically 10:26:41</p> <p>15 to digital assets, but it talks about, it 10:26:43</p> <p>16 addresses tests of whether or not a market 10:26:47</p> <p>17 is efficient, meaning that the trading price 10:26:50</p> <p>18 is absorbed and reflect information, and 10:26:54</p> <p>19 those concepts do apply to digital assets 10:26:56</p> <p>20 just like they apply to any other financial 10:26:59</p> <p>21 asset. 10:27:02</p> <p>22 Q. Okay. And, again, same question as before, 10:27:03</p> <p>23 these are general tools that one might apply 10:27:19</p> <p>24 to the cryptocurrency space, but this 10:27:21</p> <p>25 publication does not undertake to apply those 10:27:23</p> <p style="text-align: right;">Page 38</p>	<p>1 Q. Do you own or control any wallets on any 10:29:20</p> <p>2 blockchain? 10:29:26</p> <p>3 A. No. 10:29:26</p> <p>4 Q. How about a cold wallet, do you own or 10:29:27</p> <p>5 control any cold wallet? 10:29:38</p> <p>6 A. No. 10:29:40</p> <p>7 Q. All right. Would you say that you have 10:29:40</p> <p>8 any scientific knowledge regarding 10:29:56</p> <p>9 cryptocurrency? 10:29:58</p> <p>10 MR. SPEAR: Objection, form. 10:30:00</p> <p>11 A. It depends what you mean by "scientific 10:30:01</p> <p>12 knowledge." 10:30:04</p> <p>13 Q. I'm trying to understand the basis for 10:30:04</p> <p>14 reaching an expert opinion in a case about 10:30:43</p> <p>15 calculating profit and loss in a trade in 10:30:46</p> <p>16 crypto. 10:30:50</p> <p>17 MR. SPEAR: Objection to form. 10:30:51</p> <p>18 Q. Do you have experience calculating damages 10:30:53</p> <p>19 in securities cases where the assets are 10:31:00</p> <p>20 stocks or bonds? 10:31:04</p> <p>21 A. Yes. 10:31:05</p> <p>22 Q. Do you have a lot of experience in that or 10:31:05</p> <p>23 a little experience in that? 10:31:09</p> <p>24 A. A great deal. 10:31:10</p> <p>25 Q. You have a lot of experience in that. Is it 10:31:11</p> <p style="text-align: right;">Page 40</p>
<p>1 tools to a specific cryptocurrency? 10:27:26</p> <p>2 A. That is correct. 10:27:28</p> <p>3 MR. SPEAR: I'll just note for 10:27:33</p> <p>4 the record, my understanding is that these 10:27:35</p> <p>5 four papers and the next three from 2010 10:27:36</p> <p>6 were produced in that batch we gave you guys 10:27:40</p> <p>7 the other day. 10:27:47</p> <p>8 MR. MICHAELSON: Thank you. 10:27:48</p> <p>9 Q. Does Babson offer a course to students 10:27:53</p> <p>10 focused on cryptocurrency? 10:28:07</p> <p>11 A. Not presently. 10:28:11</p> <p>12 Q. So aside from your work as a professor and 10:28:23</p> <p>13 your work at Crowninshield, have you done any 10:28:35</p> <p>14 paid work, a job relating to cryptocurrency? 10:28:40</p> <p>15 A. No. 10:28:46</p> <p>16 Q. And focusing on your expert work, have you 10:28:46</p> <p>17 been an expert witness in another case 10:28:52</p> <p>18 focused on cryptocurrency? 10:28:55</p> <p>19 A. No. 10:28:57</p> <p>20 Q. Do you own -- personally you mentioned that 10:28:57</p> <p>21 you had a Coinbase account, you bought and 10:29:09</p> <p>22 sold Ethereum on one occasion. You never 10:29:13</p> <p>23 had any accounts on other crypto exchanges, 10:29:16</p> <p>24 correct? 10:29:19</p> <p>25 A. That's correct. 10:29:20</p> <p style="text-align: right;">Page 39</p>	<p>1 fair to say that you don't have experience, 10:31:14</p> <p>2 apart from this case, calculating profit or 10:31:16</p> <p>3 loss on trading in any cryptocurrency? 10:31:19</p> <p>4 MR. SPEAR: Objection to form. 10:31:23</p> <p>5 A. It depends how one's interpreting your 10:31:24</p> <p>6 question. I certainly have a great deal 10:31:31</p> <p>7 of experience and expertise and training 10:31:39</p> <p>8 for valuing damages, profits and loss and 10:31:44</p> <p>9 damages of financial assets, and digital 10:31:49</p> <p>10 assets are financial assets. Therefore, I 10:31:52</p> <p>11 do have a great deal of experience and 10:31:55</p> <p>12 training and education and knowledge that 10:31:57</p> <p>13 gives me confidence and the ability to value 10:32:04</p> <p>14 profits and losses and damages in digital 10:32:10</p> <p>15 assets. 10:32:13</p> <p>16 The knowledge I have is that the 10:32:15</p> <p>17 similarities between digital assets and more 10:32:18</p> <p>18 traditional assets are such that the 10:32:21</p> <p>19 expertise I have already demonstrated applies 10:32:25</p> <p>20 here in this case with digital assets. 10:32:28</p> <p>21 Q. So it's your testimony that you can take 10:32:33</p> <p>22 these general tools that you have used to 10:32:37</p> <p>23 value assets in other spaces like stocks or 10:32:39</p> <p>24 bonds and apply those tools to digital 10:32:44</p> <p>25 assets? 10:32:50</p> <p style="text-align: right;">Page 41</p>

<p>1 A. Yes. I believe that given what I know 10:32:50</p> <p>2 about valuing assets, financial assets, 10:32:54</p> <p>3 traditional or digital and computing 10:32:58</p> <p>4 damages for financial assets, coupled with 10:33:05</p> <p>5 a little bit more knowledge that I have 10:33:11</p> <p>6 obtained about the idiosyncracies of digital 10:33:13</p> <p>7 assets, allows me to calculate and gives 10:33:22</p> <p>8 me the specific expertise that one would 10:33:22</p> <p>9 need to calculate profits, losses and damages 10:33:24</p> <p>10 for digital assets. 10:33:27</p> <p>11 Q. Do you agree that it's important to take 10:33:30</p> <p>12 into account the idiosyncracies of digital 10:33:33</p> <p>13 assets in calculating profit or loss on 10:33:36</p> <p>14 trading digital assets? 10:33:39</p> <p>15 A. Yes, I agree. And I just want to say for 10:33:40</p> <p>16 the record that I have done that in this 10:33:45</p> <p>17 report and in the example that was provided 10:33:46</p> <p>18 in interrogatory response. 10:33:53</p> <p>19 Q. So you mentioned having a little bit of 10:33:54</p> <p>20 experience regarding the idiosyncracies? 10:33:56</p> <p>21 What is -- 10:33:56</p> <p>22 A. I didn't say a little bit of experience. I 10:34:01</p> <p>23 said the background in valuation and damage 10:34:05</p> <p>24 computation coupled with a little bit more 10:34:08</p> <p>25 knowledge about those idiosyncracies is what 10:34:11</p> <p style="text-align: right;">Page 42</p>	<p>1 10:35 a.m. We're off the record. 10:35:30</p> <p>2 (Break taken) 10:35:34</p> <p>3 VIDEOGRAPHER: We are back on the 10:50:54</p> <p>4 record. The time is 10:51 a.m. 10:51:12</p> <p>5 BY MR. MICHAELSON: 10:51:16</p> <p>6 Q. I wanted to circle back to the expert reports 10:51:16</p> <p>7 in the SEC action that you reviewed. You 10:51:28</p> <p>8 mentioned having opened and at least skimmed 10:51:35</p> <p>9 the Fischel report. Do you recall that? 10:51:38</p> <p>10 A. Right. 10:51:39</p> <p>11 Q. Why did you look at the Fischel report? 10:51:40</p> <p>12 A. I was just curious who the players were in 10:51:46</p> <p>13 that case and who was on what side. 10:51:49</p> <p>14 Q. So when you opened the Fischel report, what 10:51:52</p> <p>15 were you looking for? 10:51:55</p> <p>16 A. Some indication as to whether he was on the 10:51:58</p> <p>17 defense or the plaintiff's side or the SEC 10:51:59</p> <p>18 side. 10:52:04</p> <p>19 Q. Were you interested as well in what his 10:52:04</p> <p>20 opinion was, the subject matter of his 10:52:14</p> <p>21 opinion? 10:52:17</p> <p>22 A. I was interested. I actually, as I sit 10:52:19</p> <p>23 here now, I don't recall what it was, but 10:52:22</p> <p>24 I was interested. 10:52:24</p> <p>25 Q. So did you read the introduction? 10:52:27</p> <p style="text-align: right;">Page 44</p>
<p>1 one would need to expertly and effectively 10:34:16</p> <p>2 undertake this task. 10:34:19</p> <p>3 Q. And it's your testimony that you have 10:34:21</p> <p>4 that little bit more knowledge of the 10:34:23</p> <p>5 idiosyncracies of digital assets? 10:34:26</p> <p>6 A. I think I have more than the minimum little 10:34:30</p> <p>7 bit necessary, but I have definitely at 10:34:33</p> <p>8 least that minimum necessary. 10:34:36</p> <p>9 Q. Okay. I'm trying to understand where you 10:34:36</p> <p>10 got that from because it's not really in 10:34:38</p> <p>11 your teachings or your publications. So 10:34:42</p> <p>12 where did you get that knowledge of the 10:34:44</p> <p>13 idiosyncracies of digital assets? 10:34:46</p> <p>14 MR. SPEAR: Objection to form. 10:34:50</p> <p>15 A. I think we did cover that this morning. I 10:34:51</p> <p>16 keep abreast of the financial literature 10:34:53</p> <p>17 and this is a topic that appears in academic 10:34:57</p> <p>18 articles and even unpublished papers and 10:35:06</p> <p>19 seminars that I participated in and read. 10:35:11</p> <p>20 MR. SPEAR: We've been going about 10:35:22</p> <p>21 an hour, so if you want to take a little 10:35:24</p> <p>22 break, let me know. 10:35:26</p> <p>23 MR. MICHAELSON: We can take a 10:35:28</p> <p>24 break. 10:35:29</p> <p>25 VIDEOGRAPHER: The time is 10:35:29</p> <p style="text-align: right;">Page 43</p>	<p>1 A. Probably. 10:52:30</p> <p>2 Q. Did you read the full report? 10:52:31</p> <p>3 A. I don't think so. 10:52:34</p> <p>4 Q. Did you print it out? 10:52:34</p> <p>5 A. No. 10:52:37</p> <p>6 Q. You just reviewed it online? 10:52:37</p> <p>7 A. Correct. 10:52:40</p> <p>8 Q. Did you save it or download it? 10:52:40</p> <p>9 A. I don't recall. I don't think so. 10:52:43</p> <p>10 Q. Without getting into substance, did you -- 10:52:44</p> <p>11 A. Wait, wait. It is downloaded. 10:52:50</p> <p>12 Q. It is downloaded? 10:52:52</p> <p>13 A. It is downloaded, yeah. 10:52:52</p> <p>14 Q. Without getting into the substance of 10:52:53</p> <p>15 communications with your staff, did you 10:52:55</p> <p>16 discuss it with your staff? 10:52:58</p> <p>17 A. Just the names and sides. 10:53:01</p> <p>18 Q. Like here are the names of experts in the 10:53:05</p> <p>19 SEC action and which side they're on? 10:53:10</p> <p>20 A. Exactly. 10:53:12</p> <p>21 Q. But any discussion of the substance of their 10:53:13</p> <p>22 opinions? 10:53:16</p> <p>23 A. No. I think we had a discussion as to 10:53:17</p> <p>24 whether it would be helpful for this 10:53:22</p> <p>25 particular engagement and decided that it 10:53:24</p> <p style="text-align: right;">Page 45</p>



<p>1 would not be. 10:53:26</p> <p>2 Q. As to whether what would be helpful for 10:53:26</p> <p>3 this engagement? 10:53:29</p> <p>4 A. Reading, studying, understanding the SEC 10:53:31</p> <p>5 reports. 10:53:35</p> <p>6 Q. Okay. So it's your testimony that you 10:53:35</p> <p>7 didn't read the reports for purposes of 10:53:42</p> <p>8 forming your opinion in this case? 10:53:47</p> <p>9 A. That's correct. 10:53:49</p> <p>10 Q. Did the Fischel report in any way influence 10:53:49</p> <p>11 the report you issued here in this case? 10:54:00</p> <p>12 A. No, not at all. 10:54:03</p> <p>13 Q. Did the Farrell report influence in any way 10:54:04</p> <p>14 the opinion you expressed in this case? 10:54:07</p> <p>15 A. No. 10:54:10</p> <p>16 Q. With respect to the Farrell report, do you 10:54:10</p> <p>17 recall reading the intro or preliminary 10:54:24</p> <p>18 statement? 10:54:26</p> <p>19 A. I recall that that's probably what I did 10:54:27</p> <p>20 by opening the report. I couldn't tell you 10:54:32</p> <p>21 what it said, though, as I sit here now. 10:54:35</p> <p>22 Q. As you sit here now, do you know what 10:54:38</p> <p>23 Farrell's opinion at a high level was? 10:54:41</p> <p>24 A. No. I mean, I can guess, I can speculate. 10:54:44</p> <p>25 I'm pretty sure it was not about how to 10:54:49</p> <p style="text-align: right;">Page 46</p>	<p>1 among other things, the sale and solicitation 10:56:23</p> <p>2 of XRP tokens. 10:56:25</p> <p>3 Q. Do you have an understanding as to how XRP 10:56:28</p> <p>4 was created? 10:56:32</p> <p>5 A. Yes. 10:56:33</p> <p>6 Q. What's your understanding? 10:56:33</p> <p>7 A. Well, I came to that understanding through 10:56:34</p> <p>8 reading the documents we already spoke about, 10:56:36</p> <p>9 but my understanding is that it was invented 10:56:38</p> <p>10 by a trio of programmers who -- I guess 10:56:44</p> <p>11 it's a legal question that I'm not here to 10:56:52</p> <p>12 opine about, whether they represented Ripple 10:56:55</p> <p>13 or whether they were internal or external 10:56:58</p> <p>14 to Ripple I understand is a question that 10:57:00</p> <p>15 needs to be determined, but it has no bearing 10:57:03</p> <p>16 on my opinion. I understand the defendants 10:57:05</p> <p>17 have said that these inventors then gifted a 10:57:12</p> <p>18 large quantity of XRP tokens to the company, 10:57:17</p> <p>19 Ripple, who then sold and solicited them 10:57:20</p> <p>20 for sale. I understand the plaintiffs say 10:57:24</p> <p>21 these inventors essentially represented 10:57:27</p> <p>22 Ripple or that Ripple comprised these 10:57:29</p> <p>23 inventors, in which case Ripple invented it 10:57:32</p> <p>24 and then kept a portion for the company and 10:57:35</p> <p>25 for themselves and sold the rest and made 10:57:41</p> <p style="text-align: right;">Page 48</p>
<p>1 calculate damages and whether damages 10:54:53</p> <p>2 can be calculated on a classwide basis. 10:54:56</p> <p>3 Essentially, that's what I would have 10:55:02</p> <p>4 been looking for, and I'm pretty sure 10:55:04</p> <p>5 there was nothing in there about that. 10:55:07</p> <p>6 Q. And how about Fischel, sitting here today, 10:55:08</p> <p>7 can you describe his opinion at a high 10:55:11</p> <p>8 level? 10:55:13</p> <p>9 A. I think, and, again, you're asking me to 10:55:14</p> <p>10 speculate so I'm going to tell you that's 10:55:18</p> <p>11 what I'm doing. I shouldn't. I think 10:55:21</p> <p>12 they were focused on the question of whether 10:55:27</p> <p>13 or not a digital asset is a security. I 10:55:33</p> <p>14 think that's the case. I might be wrong 10:55:36</p> <p>15 about that, but I do know that what they 10:55:38</p> <p>16 wrote about was not relevant to what the 10:55:40</p> <p>17 scope of my engagement was. 10:55:42</p> <p>18 Q. What is XRP? 10:55:44</p> <p>19 MR. SPEAR: Objection, scope. 10:55:53</p> <p>20 A. It's a digital asset. 10:55:54</p> <p>21 Q. And what is Ripple? 10:55:55</p> <p>22 A. Ripple is the company that sold or solicited 10:56:00</p> <p>23 this for sale, this digital asset. And I 10:56:12</p> <p>24 understand these are some of the questions -- 10:56:16</p> <p>25 it's a company, it's a company involved in, 10:56:18</p> <p style="text-align: right;">Page 47</p>	<p>1 available for sale the rest. 10:57:45</p> <p>2 Q. What is your understanding of the XRP Ledger? 10:57:48</p> <p>3 MR. SPEAR: Objection to scope. 10:57:53</p> <p>4 A. There's a lot to say about that, but it's 10:57:54</p> <p>5 essentially blockchain technology that 10:57:58</p> <p>6 records ownership in transactions and also 10:58:01</p> <p>7 facilitates transactions. 10:58:05</p> <p>8 Q. How does the ledger facilitate transactions? 10:58:12</p> <p>9 MR. SPEAR: Objection, scope. 10:58:15</p> <p>10 A. My understanding is that there is software 10:58:17</p> <p>11 that lets traders or investors interact with 10:58:21</p> <p>12 the ledger to consummate trades directly on 10:58:26</p> <p>13 the ledger. 10:58:35</p> <p>14 Q. Do you have an understanding as to whether 10:58:36</p> <p>15 XRP has features that are different than 10:58:42</p> <p>16 other digital assets, like, for example, 10:58:48</p> <p>17 Bitcoin or Ethereum? 10:58:51</p> <p>18 MR. SPEAR: Objection, scope. 10:58:53</p> <p>19 A. Every asset, every stock, Apple stock versus 10:58:54</p> <p>20 Google stock, every asset has specific 10:58:59</p> <p>21 idiosyncracies and distinctive features. So 10:59:02</p> <p>22 would XRP. 10:59:06</p> <p>23 Q. Do you know what any of those idiosyncracies 10:59:07</p> <p>24 or distinguishing features of XRP are? 10:59:10</p> <p>25 A. How one answers that question is the matter 10:59:13</p> <p style="text-align: right;">Page 49</p>

1 of some debate that has, in my opinion, 10:59:19	1 methodology? 11:02:24
2 no bearing on my opinions. It's not 10:59:21	2 A. Yes. 11:02:25
3 something I wrote about in my report or 10:59:23	3 Q. Does that methodology need to take into 11:02:25
4 expressed as an opinion. There are 10:59:26	4 account the contractual terms that are 11:02:28
5 representations and allegations from both 10:59:34	5 expressed in the bilateral contract? 11:02:31
6 sides in this case about what XRP was 10:59:37	6 A. Just the prices and the quantities and the 11:02:33
7 used for and how it would be used and why 10:59:41	7 times. Prices, quantities, the form of 11:02:35
8 it had value, whether the ledger was 10:59:45	8 the consideration, the time the transaction 11:02:39
9 centralized or decentralized, for example, 10:59:47	9 took place is all that you would need. 11:02:41
10 but none of that had any bearing on my 10:59:51	10 Q. So you need information contained in the 11:02:43
11 opinions. 10:59:53	11 contract to perform that calculation, 11:02:52
12 Q. So whether XRP has utility or not have any 10:59:54	12 correct? 11:02:55
13 bearing on your opinion? 11:00:05	13 MR. SPEAR: Objection. 11:02:55
14 MR. SPEAR: Objection, scope. 11:00:06	14 A. No, just the standard facts and details 11:02:57
15 A. Well, my opinion as spelled out in this 11:00:07	15 that describe any transaction, the same 11:02:59
16 report is that there's a common method for 11:00:10	16 common information that would commonly be 11:03:01
17 computing damages for all class members. 11:00:14	17 supplied by any class member for purposes 11:03:04
18 The common method is consistent with 11:00:19	18 of calculating that class member's damages. 11:03:07
19 plaintiff's theory of liability, and I lay 11:00:22	19 Q. Could the contract, though, supply, for 11:03:10
20 out what that method is. That is really 11:00:27	20 example, the price? 11:03:12
21 what I wrote about in this report, and so 11:00:33	21 A. Like I said, price would need to be known. 11:03:15
22 specific idiosyncracies of XRP versus 11:00:37	22 In any damage calculation in any class action 11:03:18
23 other crypto digital assets did not matter. 11:00:41	23 litigation, you need to know prices. 11:03:21
24 As I sit here now, that's my thinking. 11:00:46	24 Sometimes you -- my understanding is that 11:03:26
25 Q. Sitting here today, do you have an 11:00:49	25 prices, price data for a claimant's 11:03:31
Page 50	Page 52
1 understanding as to whether a use of XRP 11:00:58	1 transactions is supplied by the claimant 11:03:36
2 could impact calculation of profit or 11:01:06	2 to the claims administrator, and whether 11:03:38
3 loss made by someone who owns it? 11:01:11	3 that price is documented in an exchange or 11:03:42
4 A. Well, it could certainly impact the profit 11:01:16	4 brokerage confirmation versus some other 11:03:48
5 or loss that was realized, but it would 11:01:18	5 form doesn't matter for purposes of applying 11:03:52
6 not impact the formula used for calculating 11:01:20	6 the formula. 11:03:57
7 the profit or loss and the damages. 11:01:23	7 Q. So it sounds like you have in mind a claims 11:03:58
8 Q. Sitting here today, do you know whether 11:01:26	8 process where the claimant would come forward 11:04:11
9 XRP is traded pursuant to any bilateral 11:01:32	9 with the inputs needed to, certain to your 11:04:14
10 contracts? 11:01:40	10 methodology, to your formula to determine 11:04:19
11 MR. SPEAR: Objection to form. 11:01:41	11 profit or loss, is that correct? 11:04:23
12 A. What do you mean by "bilateral contracts"? 11:01:42	12 A. That's typically how damages are ultimately 11:04:26
13 Q. A contract between two parties to buy or 11:01:47	13 calculated in a class action securities case. 11:04:28
14 sell an asset. 11:01:49	14 Q. So turning to Exhibit 10 here, your report, 11:04:38
15 A. Some trading took place that way, is my 11:01:50	15 I'd refer you to Page 4, you express your 11:04:50
16 understanding. 11:01:54	16 conclusion which is I think what you're 11:04:54
17 Q. So you are aware that some XRP exchanged 11:01:54	17 referring to, you opine here on Paragraph 16, 11:04:58
18 hands pursuant to bilateral contracts? 11:01:59	18 Page 4, the damages can be computed using 11:05:03
19 A. Well, we usually call that in finance an 11:02:03	19 a common methodology for all class members 11:05:11
20 over-the-counter transaction, and my 11:02:05	20 and the common classwide methodology for 11:05:16
21 understanding is there were some 11:02:07	21 determining damages for all XRP purchasers 11:05:21
22 over-the-counter transactions. 11:02:09	22 involves the straightforward application of 11:05:26
23 Q. Where XRP is exchanged pursuant to an 11:02:12	23 statutory arithmetic formulas? 11:05:30
24 over-the-counter transaction, can profit or 11:02:19	24 A. Yes. 11:05:34
25 loss be calculated pursuant to a common 11:02:20	25 Q. Sir, are you opining -- you're opining that 11:05:35
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1 damages can be computed using a common 11:05:47	1 interest rate should be applied. 11:08:42
2 methodology, correct? 11:05:51	2 Q. Anything else? 11:08:44
3 A. Yes. 11:05:51	3 A. The formula is on Page 5. Those are the 11:08:50
4 Q. Are you opining that they can be computed 11:05:52	4 arguments of the formula that we just 11:08:50
5 using common evidence? 11:05:56	5 covered, so no. 11:08:56
6 A. I think "evidence" has a specific legal 11:05:58	6 Q. You mentioned that you need information as 11:08:56
7 meaning, and I'm not a lawyer. So if you 11:06:00	7 to whether there had been a sale. What did 11:08:59
8 mean data, that the same data, the same 11:06:05	8 you mean by that? 11:09:02
9 type of data is needed from each claimant, 11:06:11	9 A. Well, you would need to know. I mean, the 11:09:02
10 that's true, the same type of data, and I 11:06:13	10 class members are people who purchased and 11:09:04
11 mentioned already what that data would be. 11:06:17	11 then sold XRP and sustained a loss. These 11:09:08
12 "Evidence" is a legal term, that I can answer 11:06:20	12 are the proposed class members, or those 11:09:12
13 the question if you explain it better. 11:06:22	13 who still own XRP, they purchased it and 11:09:16
14 Q. Got it. Well, I guess what I'm hearing you 11:06:24	14 still own it. So notice that Paragraph 19 11:09:19
15 say is that the claimant would need to come 11:06:28	15 has a formula for one and 20 has got the 11:09:23
16 forth with the information concerning their 11:06:30	16 adaptation of that same formula for the 11:09:28
17 purchase or sale in order for the calculation 11:06:32	17 other, so you need to know whether they 11:09:30
18 to be run? 11:06:36	18 still own XRP or not. 11:09:32
19 A. That's one way to do it. There are other 11:06:37	19 Q. I see. So the information as to whether 11:09:33
20 ways to calculate damages, but to apply the 11:06:39	20 there has been a sale is important to know 11:09:40
21 common formula that's in my report, one would 11:06:42	21 which, whether they're in Paragraphs 19 or 11:09:43
22 need price and quantity data for purchases 11:06:45	22 20? 11:09:45
23 and sales, if there was a sale for anybody 11:06:50	23 A. Right. 11:09:48
24 whose damages are going to be calculated, 11:06:56	24 Q. Okay. And then you said you would need to 11:09:48
25 so it's common data and it's common formulas 11:06:59	25 know the form of consideration paid. What 11:09:50
Page 54	Page 56
1 that are used. 11:07:03	1 did you mean by that? 11:09:52
2 Q. So you need the price data and you need 11:07:03	2 A. Was Bitcoin tendered for the XRP or was 11:09:53
3 the quantity data? 11:07:10	3 it Tether or U.S. dollars, and you need to 11:10:01
4 A. Right, how much did the person pay and 11:07:11	4 know that so that you can translate the 11:10:03
5 when did they pay it and how much XRP did 11:07:15	5 consideration, you can value the 11:10:04
6 they receive, and the same thing on the 11:07:21	6 consideration at the time of the 11:10:06
7 sale, if there was a sale, or we would need 11:07:24	7 transactions. 11:10:07
8 to know that there was no sale. 11:07:32	8 Q. If someone paid Bitcoin, used Bitcoin to 11:10:08
9 Q. Is any other data needed aside from the 11:07:34	9 purchase XRP, wouldn't the value of the 11:10:17
10 price data and quantity data? 11:07:38	10 consideration paid be the amount of Bitcoin 11:10:22
11 A. I said price data, price, quantity, both at 11:07:40	11 they paid for the XRP? 11:10:25
12 the time of sale and the time, time of 11:07:45	12 A. It would be the value of the Bitcoin paid. 11:10:27
13 purchase and time of sale information as to 11:07:47	13 Q. Why not just the -- so the value of the 11:10:29
14 whether or not there was a sale because 11:07:50	14 Bitcoin? 11:10:32
15 there may not have been, the form of the 11:07:53	15 A. The formula, the statute says consideration 11:10:34
16 consideration paid. That's it. Wait. 11:07:57	16 with interest thereon. The word 11:10:37
17 Right, that's it. That's what's in the 11:08:09	17 "consideration" I guess can either mean 11:10:42
18 formula. 11:08:11	18 the form of the consideration or the value 11:10:45
19 Again, if there was -- the example 11:08:13	19 of the consideration, and I think from the 11:10:46
20 I gave in the interrogatory did not apply 11:08:18	20 context it's pretty clear that it's the 11:10:47
21 interest that could have been earned, the 11:08:25	21 value of the consideration, so that would 11:10:50
22 opportunity interest on the consideration, 11:08:27	22 be dollars, how many dollars were those 11:10:52
23 but if one were to include the interest, you 11:08:31	23 Bitcoin worth at the time the XRP was 11:10:54
24 would also need guidance from the court or 11:08:34	24 purchased. 11:10:57
25 agreement among the parties as to what 11:08:40	25 Q. Okay. So let's, we'll break this down a 11:10:58
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<p>1 little bit. It was helpful to hear your 11:11:04</p> <p>2 explanation. 11:11:06</p> <p>3 Going back to Paragraph 16, you 11:11:07</p> <p>4 express that your opinion here relates to a 11:11:12</p> <p>5 common classwide methodology for determining 11:11:16</p> <p>6 damages for all XRP purchasers. What does 11:11:18</p> <p>7 it mean to purchase XRP? 11:11:26</p> <p>8 MR. SPEAR: Objection to form. 11:11:28</p> <p>9 A. It's almost a philosophical question. To 11:11:32</p> <p>10 pay a counterparty and receive XRP, quid pro 11:11:37</p> <p>11 quo in exchange for that payment. 11:11:44</p> <p>12 Q. So if you receive XRP as a gift, are you a 11:11:51</p> <p>13 purchaser of XRP? 11:11:59</p> <p>14 MR. SPEAR: Objection, calls for a 11:12:00</p> <p>15 legal conclusion. 11:12:01</p> <p>16 A. I would have to say I don't know. That's a 11:12:03</p> <p>17 legal determination. 11:12:06</p> <p>18 Q. Can your methodology apply to individuals 11:12:07</p> <p>19 who obtained XRP via gift? 11:12:11</p> <p>20 A. I'm not sure. That's something I would have 11:12:22</p> <p>21 to think about. 11:12:25</p> <p>22 Q. Do you have any understanding as to whether 11:12:26</p> <p>23 Ripple has employees? 11:12:28</p> <p>24 A. I'm sure they do have employees. 11:12:32</p> <p>25 Q. To the extent a Ripple employee receives 11:12:34</p> <p style="text-align: right;">Page 58</p>	<p>1 a person who obtained XRP in exchange for 11:14:14</p> <p>2 a tangible good? 11:14:19</p> <p>3 A. Yes. 11:14:20</p> <p>4 Q. Just to be clear on the scope of your 11:14:20</p> <p>5 opinion, it sounds like it is not part of 11:14:35</p> <p>6 the scope of your opinion who is or who 11:14:41</p> <p>7 is not a purchaser of XRP? 11:14:43</p> <p>8 A. That's correct. 11:14:48</p> <p>9 Q. So you're not opining on who is or is not 11:14:48</p> <p>10 a purchaser of XRP, correct? 11:14:54</p> <p>11 A. Correct. 11:14:56</p> <p>12 Q. Does your opinion encompass the 11:14:56</p> <p>13 identification of people who are purchasers 11:15:01</p> <p>14 of XRP? 11:15:05</p> <p>15 A. How is that different from the previous 11:15:06</p> <p>16 question? 11:15:09</p> <p>17 Q. The first question is more of a conceptual 11:15:10</p> <p>18 question of like categorically speaking, 11:15:15</p> <p>19 who would count or not in the determination 11:15:18</p> <p>20 of who is a purchaser of XRP. The second 11:15:20</p> <p>21 is actually like identifying the class 11:15:21</p> <p>22 members. 11:15:23</p> <p>23 A. No. I haven't been asked to identify class 11:15:24</p> <p>24 members and nothing about that is expressed 11:15:26</p> <p>25 in my report. 11:15:28</p> <p style="text-align: right;">Page 60</p>
<p>1 XRP as a form of their compensation, are 11:12:37</p> <p>2 they a purchaser of XRP? 11:12:43</p> <p>3 MR. SPEAR: Objection, calls for 11:12:45</p> <p>4 a legal conclusion. 11:12:46</p> <p>5 A. Again, that does sound like -- the answer 11:12:47</p> <p>6 to that question must be covered somewhere 11:12:50</p> <p>7 in the law, and I'm not a lawyer. I can 11:12:53</p> <p>8 answer economic questions. I don't think 11:12:57</p> <p>9 that is an economic question, so I think 11:13:00</p> <p>10 I should just say I don't know for sure. 11:13:03</p> <p>11 I don't want to say, give an answer that's 11:13:04</p> <p>12 contrary to established law, case law or 11:13:06</p> <p>13 statute. I think the case law and statute 11:13:10</p> <p>14 should speak for itself and legal experts 11:13:12</p> <p>15 can decide that. 11:13:14</p> <p>16 Q. Can the common methodology that you propose 11:13:15</p> <p>17 in your opinion be applied to those who 11:13:20</p> <p>18 acquire XRP as compensation for their work? 11:13:24</p> <p>19 A. I think it can. 11:13:28</p> <p>20 Q. Do you have an understanding as to whether 11:13:31</p> <p>21 someone could sell a tangible good like a 11:13:46</p> <p>22 cup of coffee in exchange for XRP? 11:13:51</p> <p>23 A. I think that's possible. 11:13:56</p> <p>24 Q. Can your common methodology be used to 11:14:06</p> <p>25 calculate the gain or loss experienced by 11:14:09</p> <p style="text-align: right;">Page 59</p>	<p>1 Q. Okay. Does your opinion encompass price 11:15:29</p> <p>2 correlation between XRP and any other 11:15:35</p> <p>3 digital asset? 11:15:37</p> <p>4 A. What do you mean by "correlation"? 11:15:39</p> <p>5 Q. Whether the price or value of XRP is 11:15:41</p> <p>6 correlated with movements in prices of 11:15:44</p> <p>7 other digital assets. 11:15:46</p> <p>8 A. I have expressed that to apply the formula, 11:15:48</p> <p>9 one should convert whatever the form of 11:15:53</p> <p>10 the consideration was to the value of the 11:15:57</p> <p>11 consideration. So exchange rates and 11:15:59</p> <p>12 valuations are relevant to apply the common 11:16:04</p> <p>13 methodology commonly for all class members, 11:16:09</p> <p>14 but correlation usually means movement 11:16:12</p> <p>15 over time, and that I haven't expressed 11:16:15</p> <p>16 anything about movement over time. 11:16:18</p> <p>17 Q. Okay. Yes, that's what I was asking about, 11:16:20</p> <p>18 whether the price of XRP correlates over 11:16:24</p> <p>19 time with the price of digital assets, not 11:16:27</p> <p>20 something that's the subject of your opinion, 11:16:31</p> <p>21 correct? 11:16:32</p> <p>22 A. Say that again, please? 11:16:33</p> <p>23 Q. It's fair to say that your opinion does not 11:16:35</p> <p>24 encompass whether the price of XRP correlates 11:16:40</p> <p>25 with the price of any other digital asset 11:16:44</p> <p style="text-align: right;">Page 61</p>

1 over time? 11:16:46	1 out that if there's a determination that 11:19:45
2 A. Right, I express no opinion about that 11:16:47	2 one doesn't need to translate the form 11:19:47
3 specifically. 11:16:50	3 of the consideration to the value of that 11:19:50
4 Q. Does your opinion encompass whether the 11:16:51	4 consideration in dollars, then that 11:19:51
5 price or value of XRP might vary across 11:17:01	5 methodology would also be common to all 11:19:53
6 exchanges at any given point in time? 11:17:08	6 class members. I just want to point out 11:19:55
7 A. I considered that. I believe given that, 11:17:13	7 that regardless of whether one does the 11:19:58
8 though that may be the case, these formulas, 11:17:19	8 translation or chooses not to do the 11:20:00
9 data exists such that these formulas can 11:17:23	9 translation, the methodology that's arrived 11:20:02
10 still be applied commonly for all class 11:17:27	10 at from making that determination will be 11:20:04
11 members. 11:17:29	11 common for all class remembers. I think 11:20:07
12 Q. So you agree it may be the case, that the 11:17:30	12 that's paramount and primary. 11:20:09
13 price of XRP varies at a given point in 11:17:35	13 However, if the methodology is to 11:20:12
14 time across exchanges? 11:17:38	14 translate forms of consideration to value 11:20:17
15 A. That may be the case, yes. 11:17:41	15 consideration in dollars, then you need 11:20:21
16 Q. And do you also agree that the price of, 11:17:42	16 exchange rates and Bloomberg provides them. 11:20:23
17 say, Bitcoin at a given point in time might 11:17:46	17 Q. To be clear, the methodology that you are 11:20:31
18 vary across exchanges? 11:17:49	18 putting forth in your opinion involves the 11:20:37
19 A. There seems to be evidence of that in the 11:17:52	19 conversion of consideration paid into U.S. 11:20:40
20 literature in the market, yes. It does 11:17:56	20 dollars? 11:20:44
21 not preclude calculation of damages commonly 11:17:58	21 A. My conclusion in Paragraph 16 is that the 11:20:45
22 for all class members. 11:18:04	22 methodology is common, and that conclusion 11:20:48
23 Q. You referred to evidence in the literature 11:18:05	23 holds firm whether we choose to translate 11:20:54
24 about price variation of Bitcoin across 11:18:09	24 the consideration into dollar value or 11:20:57
25 exchanges. What were you referring to? 11:18:12	25 choose not to translate the form of the 11:21:01
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1 A. I can't cite an article specifically, but 11:18:15	1 consideration to dollar value. So it's 11:21:04
2 this is an observation that's been made. 11:18:18	2 still, the conclusion that I represent 11:21:06
3 Q. Sitting here today, do you have a sense 11:18:21	3 in Paragraph 16 holds regardless. The 11:21:12
4 of how large or small that variation might 11:18:23	4 examples I gave in Paragraphs 19 and 20, 11:21:16
5 be? 11:18:29	5 these examples do translate consideration 11:21:16
6 A. No, but I did check Bloomberg and the 11:18:29	6 form into consideration value, and for that 11:21:19
7 documentation in Bloomberg that they've 11:18:36	7 you need exchange rates, and I verified 11:21:21
8 arrived at analytics and a methodology for 11:18:38	8 that exchange rates are available. 11:21:26
9 producing data that according to Bloomberg 11:18:42	9 Q. This is helpful. In Paragraphs 19 and 20 11:21:28
10 represents the value of digital assets at 11:18:47	10 of your report, you put forward formulas for 11:21:37
11 various points in time, notwithstanding 11:18:49	11 calculating damages, correct? 11:21:40
12 that the trading price might be different on 11:18:52	12 A. Yes. 11:21:44
13 one exchange versus another. 11:18:55	13 Q. But what I hear you saying is these are 11:21:44
14 Q. Is this Bloomberg data to which you're 11:18:59	14 just examples of formulas that might be used, 11:21:49
15 referring something that you would use in 11:19:07	15 but there are other competing formulas that 11:21:52
16 the computation of gain or loss pursuant 11:19:10	16 might also be used to calculate damages. Is 11:21:54
17 to your methodology? 11:19:12	17 that a fair summary of your testimony? 11:21:57
18 A. You can. 11:19:14	18 MR. SPEAR: Objection. 11:21:58
19 Q. You referenced you needed to translate the 11:19:18	19 A. I'm saying I believe these are the formulas 11:21:59
20 consideration paid into U.S. dollars. So, 11:19:23	20 that should be used. I do understand that 11:22:03
21 for example, if someone bought XRP with 11:19:25	21 it's possible that an alternative formula 11:22:04
22 Bitcoin, you need to translate, under your 11:19:29	22 that's very similar, there may be a 11:22:09
23 methodology, the value of that Bitcoin into 11:19:33	23 determination that that other similar formula 11:22:12
24 U.S. dollars, correct? 11:19:36	24 is more appropriate, and I'm pointing out 11:22:15
25 A. Well, first of all, I just want to point 11:19:38	25 that even if it were not these formulas but 11:22:19
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<p>1 the very similar alternative formula, it 11:22:22</p> <p>2 would still be a common damage methodology 11:22:25</p> <p>3 for all class members. 11:22:28</p> <p>4 I do believe these are the correct 11:22:29</p> <p>5 formulas and these are the formulas that 11:22:31</p> <p>6 ought to be used, but I just want to point 11:22:33</p> <p>7 out that my opinion in Paragraph 16 is 11:22:35</p> <p>8 maintained even if one were to modify this 11:22:37</p> <p>9 formula slightly in the way we've been 11:22:40</p> <p>10 describing. 11:22:43</p> <p>11 Q. You say a common methodology can be used 11:22:44</p> <p>12 to calculate damages, but what that 11:22:46</p> <p>13 methodology is could take different forms? 11:22:48</p> <p>14 A. Well, two that I can think of that we've 11:22:51</p> <p>15 talked about, they're very similar, I believe 11:22:54</p> <p>16 of those two, the formulas in Paragraphs 19 11:22:59</p> <p>17 and 20 are the correct ones. 11:23:02</p> <p>18 Q. Okay. When you say we've talked about two, 11:23:04</p> <p>19 you're referring to one formula that would 11:23:07</p> <p>20 involve translating consideration paid into 11:23:09</p> <p>21 U.S. dollars, that's one method. A different 11:23:14</p> <p>22 method would be leaving the consideration 11:23:19</p> <p>23 paid in whatever form it was paid, whether 11:23:21</p> <p>24 that be Bitcoin, Tether or Ethereum? 11:23:25</p> <p>25 A. Correct. 11:23:29</p> <p style="text-align: right;">Page 66</p>	<p>1 better model does involve converting the 11:24:43</p> <p>2 consideration into U.S. dollars, but you 11:24:49</p> <p>3 have not yet opined on how that conversion 11:24:51</p> <p>4 would be performed? 11:24:56</p> <p>5 A. No, that's not true at all. It's the same 11:24:56</p> <p>6 model, how much you paid for XRP versus 11:25:03</p> <p>7 how much you got back when you sold your 11:25:06</p> <p>8 XRP. If you got back less than you paid, 11:25:08</p> <p>9 that's a loss, and how it's translated into 11:25:11</p> <p>10 dollars, there's a slight tweak, there's 11:25:16</p> <p>11 different ways of doing that. 11:25:19</p> <p>12 I think the best way to do it is 11:25:20</p> <p>13 to do the translation at the time of the 11:25:22</p> <p>14 transactions. I believe that's consistent 11:25:24</p> <p>15 with the statute, the language in the 11:25:26</p> <p>16 statute, and I verified that there are 11:25:29</p> <p>17 databases that allow one to do that. In 11:25:33</p> <p>18 fact, I provided defendants with an example 11:25:35</p> <p>19 of that calculation done. But at this point, 11:25:40</p> <p>20 I'm saying that I haven't yet calculated 11:25:42</p> <p>21 damages for the entire class or for members 11:25:45</p> <p>22 of the class beyond Mr. Sostack, and it's 11:25:51</p> <p>23 altogether possible that exactly which 11:25:54</p> <p>24 exchange rates to use, that's what I want to 11:25:59</p> <p>25 focus on, exactly which database for the 11:26:02</p> <p style="text-align: right;">Page 68</p>
<p>1 Q. In then in your model, the one that you're 11:23:29</p> <p>2 proposing in Paragraphs 19 and 20, there's 11:23:34</p> <p>3 this conversion into U.S. dollars, correct? 11:23:36</p> <p>4 A. Well, in order to calculate consideration, 11:23:39</p> <p>5 one would convert the form of the 11:23:43</p> <p>6 consideration to that dollar value of the 11:23:45</p> <p>7 consideration. 11:23:47</p> <p>8 Q. What is your proposal for what exchange 11:23:48</p> <p>9 rates would be used to translate, for 11:23:53</p> <p>10 example, Bitcoin or Ethereum into U.S. 11:23:56</p> <p>11 dollars? 11:23:58</p> <p>12 A. What I check is that we have Bloomberg, 11:23:59</p> <p>13 Bloomberg is a good source, it's 11:24:03</p> <p>14 reputable, but at this point I don't think 11:24:04</p> <p>15 I have to -- I just want to reserve the 11:24:08</p> <p>16 option to consider it further. That's not 11:24:16</p> <p>17 part of my opinion right now, which is the 11:24:18</p> <p>18 best data source to use. If I were to do 11:24:20</p> <p>19 damages, I might at a later date decide that 11:24:23</p> <p>20 there was a better data source. I know 11:24:26</p> <p>21 that for sure there's at least Bloomberg, 11:24:28</p> <p>22 but my opinion at this point does not 11:24:31</p> <p>23 encompass a determination that Bloomberg is 11:24:33</p> <p>24 the only or best data source to use. 11:24:35</p> <p>25 Q. So you think that the preferred model, the 11:24:38</p> <p style="text-align: right;">Page 67</p>	<p>1 exchange rates is not something that I 11:26:05</p> <p>2 was asked to opine about or need to opine 11:26:11</p> <p>3 about in order to proffer the opinion that 11:26:14</p> <p>4 it's a common damage methodology for all 11:26:17</p> <p>5 class members. 11:26:19</p> <p>6 Q. So I have a bunch of questions about these 11:26:20</p> <p>7 exchange rates. Does the scope of your 11:26:29</p> <p>8 opinion include what exchange rate would be 11:26:34</p> <p>9 used to translate consideration paid into 11:26:39</p> <p>10 U.S. dollars? 11:26:43</p> <p>11 A. No, it doesn't need to. We know that 11:26:45</p> <p>12 exchange rates exist. The choice of the 11:26:48</p> <p>13 best, most appropriate, most reliable 11:26:53</p> <p>14 exchange rate data doesn't impact or 11:26:56</p> <p>15 doesn't affect the opinion that it's a 11:27:03</p> <p>16 common damage methodology for all class 11:27:06</p> <p>17 members which is the opinion I'm offering 11:27:08</p> <p>18 today and in this report. 11:27:10</p> <p>19 Q. You could imagine two different purchasers 11:27:11</p> <p>20 of XRP, one who had just before buying XRP 11:27:14</p> <p>21 converted U.S. dollars to Bitcoin and then 11:27:20</p> <p>22 used that Bitcoin to buy XRP. You can 11:27:24</p> <p>23 imagine another purchaser of XRP who had 11:27:26</p> <p>24 just Bitcoin holdings in their Coinbase 11:27:29</p> <p>25 account, for example, had been holding the 11:27:32</p> <p style="text-align: right;">Page 69</p>

1	Bitcoin for some period of time and they	11:27:34	1	witness' testimony.	11:30:03
2	used that Bitcoin to purchase XRP. What	11:27:36	2	A. I'm saying that that's within the realm	11:30:04
3	exchange rate would you propose is the	11:27:47	3	of possibility. It would still be a common	11:30:07
4	best exchange rate in each of those two	11:27:49	4	methodology. Personally, I think the best	11:30:09
5	scenarios?	11:27:51	5	methodology would be to use the value of	11:30:12
6	MR. SPEAR: Objection, scope.	11:27:52	6	the Bitcoin at the time of the transaction	11:30:15
7	A. As an economist, I think the best exchange	11:27:53	7	according to a reputable database. But	11:30:17
8	rate is the exchange rate at the time of	11:27:58	8	if there's some legal determination that	11:30:22
9	the transactions, although if there's a	11:28:00	9	overrides the economic analysis, what one	11:30:24
10	legal opinion that says no, it should be,	11:28:02	10	is left with still is a common methodology	11:30:29
11	consideration should be left in the form	11:28:07	11	for all class members.	11:30:31
12	until settlement or jury verdict, then you	11:28:09	12	Q. So what you personally think would be the	11:30:33
13	would use the exchange rates of the later	11:28:13	13	best methodology is the value of Bitcoin	11:30:35
14	date.	11:28:15	14	at the time of the transaction as determined	11:30:37
15	So as an economist, I have an	11:28:16	15	by a reputable database, and you have	11:30:42
16	opinion which is the best, which represents	11:28:17	16	Bloomberg in mind for that?	11:30:47
17	damages and I actually think that's most	11:28:21	17	A. Bloomberg is a reputable database. I haven't	11:30:48
18	consistent with the statute, language in the	11:28:23	18	yet determined whether it's the only or the	11:30:53
19	statute, but it doesn't change my opinion	11:28:26	19	best, but it's certainly available for this	11:30:54
20	about there being a common damage methodology	11:28:28	20	purpose.	11:30:56
21	if the law or the court or the parties agree	11:28:31	21	Q. Would you agree that if that were the	11:30:56
22	on a different time to do the translation.	11:28:34	22	methodology that were used, that the	11:30:58
23	Q. For the first of the two hypothetical	11:28:39	23	calculation of an individual purchaser's	11:31:00
24	purchasers that I mentioned who had	11:28:42	24	gain or loss might differ from their sort	11:31:01
25	transferred U.S. dollars into Bitcoin just	11:28:46	25	of real-world experience because, for	11:31:04
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1	before the transaction and then used the	11:28:49	1	example, they just acquired that Bitcoin	11:31:06
2	Bitcoin immediately to buy XRP, would	11:28:52	2	with dollars that cost them a little more or	11:31:09
3	the actual exchange rate that that person	11:28:58	3	less than what Bloomberg might say was the	11:31:11
4	obtained transferring U.S. dollars into	11:29:00	4	exchange rate at the time?	11:31:15
5	Bitcoin be the right to use or more of like	11:29:05	5	MR. SPEAR: Objection to form.	11:31:15
6	a general Bloomberg rate?	11:29:07	6	Objection to scope.	11:31:16
7	MR. SPEAR: Objection, scope. Go	11:29:10	7	A. If you've got different alternatives, the	11:31:18
8	ahead.	11:29:14	8	outcome of the different alternatives might	11:31:26
9	A. It's a hypothetical you're asking about.	11:29:14	9	be different. In the hypothetical you	11:31:29
10	I'm sure there are details of this	11:29:17	10	gave, it's hard to believe that it would be	11:31:32
11	hypothetical that are not explicated in	11:29:19	11	materially different. Bloomberg being a	11:31:34
12	your offering of the hypothetical. I would	11:29:24	12	reputable database seeks to assess what the	11:31:36
13	want to look at all the facts. Whatever	11:29:27	13	value of these different digital assets	11:31:41
14	the answer is, you're still left with a	11:29:31	14	actually are at a point in time, so that	11:31:45
15	common methodology for all class members.	11:29:35	15	would give you an assessment of the value	11:31:48
16	I kind of want to reserve the opportunity	11:29:38	16	of the consideration paid even if there	11:31:52
17	to think about that some more if it turns	11:29:40	17	had been a different transaction external to	11:31:54
18	out that that hypothetical is realistic. I	11:29:44	18	the XRP purchase at a different price.	11:31:59
19	think I'll leave it at that.	11:29:48	19	Q. Do crypto exchanges, to your knowledge,	11:32:11
20	Q. What I hear you saying is it could be that	11:29:49	20	typically charge transaction fees?	11:32:18
21	different exchange rates could be used	11:29:55	21	A. I'm not sure. I know there's a bid-ask	11:32:25
22	for different types of purchasers of XRP	11:29:56	22	spread. I just don't recall whether	11:32:29
23	depending on the circumstances of their	11:29:59	23	there's -- some might charge a commission	11:32:33
24	purchase?	11:30:02	24	on top of a bid-ask spread, some might not.	11:32:36
25	MR. SPEAR: Objection, misstates	11:30:02	25	I know there generally is a bid-ask spread	11:32:47
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<p>1 and a bid-ask spread is a transaction fee. 11:32:49</p> <p>2 Q. Do you know if crypto exchanges like 11:32:52</p> <p>3 Coinbase, for example, charge fees separate 11:32:55</p> <p>4 from any bid-ask spread? 11:32:59</p> <p>5 A. Whether they do or don't doesn't make this 11:33:07</p> <p>6 calculation any different from calculation 11:33:10</p> <p>7 of damages in a stock or a bond case. In 11:33:14</p> <p>8 stocks and bonds there's bid-ask spreads 11:33:19</p> <p>9 and there are are commissions charged. 11:33:22</p> <p>10 How one deals with transaction fees in 11:33:26</p> <p>11 calculating damages is well-trod ground in 11:33:28</p> <p>12 the calculation of damages and doesn't, 11:33:36</p> <p>13 wouldn't cause there to be anything but a 11:33:39</p> <p>14 common damage methodology that could be 11:33:42</p> <p>15 applied. 11:33:44</p> <p>16 To answer your question, I don't 11:33:46</p> <p>17 know as I sit here now. I mean, there's 11:33:48</p> <p>18 160 exchanges. Some might, some might not. 11:33:50</p> <p>19 Q. In this common methodology that you're 11:33:56</p> <p>20 proposing in your report, do transaction 11:34:03</p> <p>21 fees factor into the calculation of gain or 11:34:06</p> <p>22 loss? 11:34:09</p> <p>23 A. Well, if the transaction fee is in the 11:34:11</p> <p>24 form of a bid-ask spread, then one would be 11:34:13</p> <p>25 purchasing at the ask and selling at the 11:34:19</p> <p style="text-align: right;">Page 74</p>	<p>1 in violation of Section 5 may sue to recover 11:36:15</p> <p>2 the consideration paid for such security 11:36:19</p> <p>3 with interest thereon, less the amount of 11:36:24</p> <p>4 any income received thereon upon the tender 11:36:27</p> <p>5 of such security or for damages if he no 11:36:33</p> <p>6 longer owns the security." I'm going to 11:36:40</p> <p>7 break down some of the words. 11:36:44</p> <p>8 The consideration paid for such 11:36:46</p> <p>9 security, you've expressed the view that it 11:36:47</p> <p>10 could be the consideration paid, for example, 11:36:50</p> <p>11 Bitcoin, or the value of that consideration 11:36:53</p> <p>12 paid, for example, translating that Bitcoin 11:36:55</p> <p>13 amount into U.S. dollars at the time of 11:36:58</p> <p>14 purchase, correct? 11:37:00</p> <p>15 A. Well, I understand that there might be a 11:37:02</p> <p>16 legal determination that needs to be made 11:37:06</p> <p>17 as to whether the word "consideration" here 11:37:08</p> <p>18 means the form of the consideration or the 11:37:11</p> <p>19 value of the consideration. I believe it 11:37:13</p> <p>20 means the value of the consideration because 11:37:16</p> <p>21 that's how you would then be able to 11:37:20</p> <p>22 calculate interest thereon, but I'm not here 11:37:22</p> <p>23 to make legal determinations. I'm here to 11:37:30</p> <p>24 offer economic opinions based in economics, 11:37:34</p> <p>25 and my economics opinion is that whichever 11:37:39</p> <p style="text-align: right;">Page 76</p>
<p>1 bid and so the transaction fee would be 11:34:20</p> <p>2 factored in. My understanding is that when 11:34:25</p> <p>3 there's a separate commission paid, there 11:34:28</p> <p>4 would have to be a determination as to 11:34:32</p> <p>5 whether that should be included as a cost 11:34:34</p> <p>6 for the purchase or not, and if it's 11:34:37</p> <p>7 determined that it should be included, then 11:34:41</p> <p>8 it would be included for all class members, 11:34:44</p> <p>9 and if it's determined that it should be 11:34:45</p> <p>10 excluded, it would be excluded for all class 11:34:48</p> <p>11 members. 11:34:50</p> <p>12 Q. Does your report express a view on that? 11:34:51</p> <p>13 A. No, but I do want to point out the exact 11:34:56</p> <p>14 same considerations and factors apply to 11:35:10</p> <p>15 damages in every other class action security 11:35:14</p> <p>16 case that I've ever been involved in. 11:35:19</p> <p>17 Q. So referring to Paragraph 17 of your report, 11:35:22</p> <p>18 you copy-and-paste here the methodology for 11:35:41</p> <p>19 calculating damages under Section 12(a) of 11:35:41</p> <p>20 the Securities Act. Do you see that? 11:35:46</p> <p>21 A. Yeah, 12(a)(1), but yes. 11:35:47</p> <p>22 Q. And the damages, the methodology -- strike 11:35:50</p> <p>23 that. I'll start over. 11:36:04</p> <p>24 The statute provides that "any 11:36:08</p> <p>25 person who purchases an unregistered security 11:36:12</p> <p style="text-align: right;">Page 75</p>	<p>1 legal determination is made, it would be 11:37:42</p> <p>2 a common methodology for all class members 11:37:44</p> <p>3 either way, although I think one is better 11:37:47</p> <p>4 than the other. 11:37:49</p> <p>5 Q. The formulas that you proceed to propose 11:37:50</p> <p>6 in Paragraphs 19 and 20 proceed from the 11:37:53</p> <p>7 notion that the consideration paid is the 11:38:00</p> <p>8 value of the consideration paid, is that 11:38:02</p> <p>9 correct? 11:38:04</p> <p>10 A. Yes. That's how you would then be able 11:38:04</p> <p>11 to calculate interest thereon. 11:38:09</p> <p>12 Q. Could you not calculate interest thereon 11:38:13</p> <p>13 if the consideration was, for example, 11:38:15</p> <p>14 Bitcoin? 11:38:18</p> <p>15 MR. SPEAR: Objection, scope. 11:38:20</p> <p>16 A. You may or may not be able to depending on 11:38:21</p> <p>17 if you interpreted this to mean any form of 11:38:26</p> <p>18 consideration left in that original form. 11:38:29</p> <p>19 Q. Can you explain what you mean by that? 11:38:35</p> <p>20 A. If the consideration is a box of candy, 11:38:39</p> <p>21 how are you going to calculate interest 11:38:41</p> <p>22 thereon? I think it's got to be translated 11:38:43</p> <p>23 to dollars in order to calculate interest 11:38:48</p> <p>24 thereon. Dollars have an interest rate. I 11:38:51</p> <p>25 think that's what the statute contemplates. 11:38:55</p> <p style="text-align: right;">Page 77</p>

1 Q. I see. So in the scenario where, for 11:38:58	1 out to a third party for that third party 11:41:48
2 example, someone exchanges a cup of coffee 11:39:02	2 to use in exchange for interest payments -- 11:41:52
3 for XRP, a tangible good like a cup of 11:39:05	3 A. Right. 11:41:54
4 coffee for XRP, it would be hard to calculate 11:39:10	4 Q. -- does that -- and received those interest 11:41:55
5 the interest that one would have obtained 11:39:12	5 payments -- 11:41:58
6 on a cup of coffee? 11:39:15	6 A. Right. 11:41:58
7 A. It would be very easy if you translated it 11:39:16	7 Q. -- and at the end of a period of time 11:41:58
8 into value first. That's why I think that's 11:39:21	8 received their XRP back -- 11:42:00
9 what the statute contemplates. 11:39:22	9 A. Right. 11:42:02
10 Q. Okay. It says here in the statute that you 11:39:25	10 Q. -- and then sold it, let's say, does the 11:42:03
11 then subtract from the amount recovered, the 11:39:28	11 interest that that XRP holder earned while 11:42:08
12 amount of any income received thereon? 11:39:34	12 having lent out the XRP factor into your 11:42:11
13 A. Right. 11:39:37	13 calculation of gain or loss? 11:42:16
14 Q. Is it possible to receive income on XRP 11:39:37	14 A. It's excluded. That doesn't count. That's 11:42:17
15 during the period of time when you're holding 11:39:46	15 not interest thereon. That's interest or 11:42:21
16 it? 11:39:48	16 payment for bearing counterparty risk for a 11:42:24
17 A. Well, Ripple did not pay interest or 11:39:48	17 separate transaction. That's not at issue 11:42:26
18 dividends on its XRP tokens. There are other 11:39:50	18 in this case. What's at issue in this case 11:42:31
19 applications or transactions that people 11:39:58	19 is if Ripple paid dividends or interest on 11:42:37
20 might have gone to to try to earn income 11:39:59	20 XRP tokens, and they did not. So it was 11:42:46
21 being in possession of XRP, but that's -- 11:40:04	21 considered in my opinion. It was considered 11:42:47
22 what this here means is dividends or interest 11:40:07	22 in the formulas. It's represented 11:42:48
23 paid by the issuer, and XRP did not pay 11:40:10	23 appropriately in my opinion and the formulas 11:42:51
24 dividends on its XRP tokens. 11:40:15	24 by being excluded. 11:42:54
25 Q. What are the other types of applications or 11:40:16	25 Q. Understood. 11:42:55
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1 transactions that people might have gone 11:40:19	1 A. Can we take a break? 11:43:00
2 on to try to earn income on their XRP while 11:40:20	2 Q. I was about to propose the same thing. 11:43:02
3 holding it? 11:40:25	3 MR. MICHAELSON: We can go off the 11:43:04
4 A. I'll give you two. Take your XRP and maybe 11:40:25	4 record. 11:43:07
5 use it as collateral to engage in a real 11:40:30	5 VIDEOGRAPHER: The time is 11:43. 11:43:07
6 estate investment and then it turns out to 11:40:37	6 We're off the record. 11:43:09
7 be a good real estate investment. That's 11:40:40	7 (Break taken) 11:43:10
8 clearly not what the statute contemplates. 11:40:42	8 VIDEOGRAPHER: We are back on the 11:59:11
9 That's not interest thereon. That's not 11:40:45	9 record. The time is 11:59. 11:59:15
10 interest that the security pays. 11:40:47	10 BY MR. MICHAELSON: 11:59:18
11 I do know that there were digital 11:40:48	11 Q. Dr. Feinstein, I'd like to direct your 11:59:21
12 asset market participants that would pay 11:40:53	12 attention to Page 5 of Exhibit 10, your 11:59:24
13 short sell lending fees or if you would 11:40:56	13 report, specifically Paragraph 20 which I 11:59:30
14 lend your assets to them, they would pay you 11:41:01	14 understand is the paragraph that sets forth 11:59:36
15 interest on it, but that's a separate 11:41:03	15 the methodology for calculating damages 11:59:38
16 transaction outside of the transaction with 11:41:05	16 for an XRP purchaser who has not sold, 11:59:40
17 Ripple, outside of the interest that Ripple 11:41:08	17 correct? 11:59:46
18 would pay on its XRP tokens. And clearly, 11:41:13	18 A. Yes. 11:59:46
19 from what I know about other cases I've been 11:41:19	19 Q. So referring to the formula here, it says, 11:59:46
20 involved in, things like short sale lending 11:41:21	20 "the damages for class members who purchased 11:59:52
21 fees are not what the statute meant when it 11:41:25	21 but never sold XRP equals," then you start 11:59:55
22 said income received thereon. What's been 11:41:31	22 with a dollar amount paid at the time of 11:59:59
23 interpreted in other cases is that it's 11:41:35	23 purchase. Do you see that? 12:00:01
24 income paid by the issuer. 11:41:38	24 A. Yes. 12:00:02
25 Q. So if a person were holding XRP and lent it 11:41:42	25 Q. We covered this a little bit already, but 12:00:02
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1 the dollar amount paid, what are you 12:00:05	1 A. It's the arithmetic form of what's in 12:02:54
2 referring to there? 12:00:09	2 the statute. It's the arithmetic formula 12:03:03
3 A. The dollar value of the consideration paid. 12:00:10	3 form of the statute. 12:03:08
4 Q. So, again, if the purchaser used Bitcoin 12:00:18	4 Q. There are certain leaps between the statutory 12:03:10
5 or ETHE or Tether, you're proposing here 12:00:22	5 language and the formula expressed in 12:03:13
6 to convert that into dollars based on the 12:00:28	6 Paragraph 20, right? 12:03:17
7 exchange rate -- 12:00:32	7 MR. SPEAR: Objection to form. 12:03:18
8 A. Yes. 12:00:35	8 A. If there's some interpretation here, what 12:03:19
9 Q. -- as of the time of the purchase? 12:00:35	9 I want to say about that is I think the 12:03:22
10 A. Yes. 12:00:37	10 interpretation is correct. The 12:03:23
11 Q. And if that purchaser had in the real world 12:00:38	11 interpretation is consistent with other 12:03:25
12 just converted dollars to Bitcoin and then 12:00:48	12 cases I've done that have been validated 12:03:27
13 used that Bitcoin to make this purchase, 12:00:53	13 by the parties or by the courts. And if 12:03:29
14 would you use that purchaser's real-world 12:00:55	14 in this particular case a slightly different 12:03:33
15 exchange rate or the general market exchange 12:00:58	15 interpretation of one or more of the 12:03:36
16 rate for Bitcoin to dollar as of the time 12:01:06	16 words applies, it would still be a common 12:03:38
17 of the purchase of XRP? 12:01:09	17 damage methodology given the alternative 12:03:41
18 MR. SPEAR: Objection to form. 12:01:13	18 interpretation. I believe this is the 12:03:44
19 Objection, scope and asked and answered. Go 12:01:14	19 correct way to present the statute as a 12:03:46
20 ahead. 12:01:16	20 mathematical formula, but if there has to 12:03:52
21 A. My understanding is that the data sources 12:01:16	21 be some adjustment to it of the kind you're 12:03:56
22 like Bloomberg take into account actual 12:01:18	22 describing, we would still have a common 12:03:59
23 transactions, so I think the person's actual 12:01:21	23 formula for all class members. 12:04:01
24 transaction would be reflected in the data 12:01:25	24 Q. Do you know if the proposed class here 12:04:03
25 that's available, so they're not really 12:01:28	25 includes foreign purchasers? By that I mean 12:04:05
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1 mutually exclusive. 12:01:33	1 a purchaser -- well, for purposes of 12:04:10
2 Q. But they're not going to be identical, 12:01:34	2 my question here, I'm referring to, for 12:04:14
3 right? 12:01:37	3 example, a foreigner living in a different 12:04:17
4 MR. SPEAR: Objection, scope. 12:01:38	4 country and trading XRP from a foreign 12:04:21
5 Objection, form. 12:01:39	5 country on a foreign exchange. 12:04:25
6 A. They might not be. How they did in their 12:01:40	6 MR. SPEAR: Objection to form. 12:04:27
7 own individual transaction is not necessarily 12:01:45	7 Go ahead. 12:04:29
8 better than calculating the value of the 12:01:51	8 A. My understanding is that plaintiff's counsel 12:04:29
9 consideration paid using a market valuation, 12:01:56	9 wishes to include all investors into whom 12:04:31
10 a market metric, a market exchange rate 12:02:00	10 XRP was solicited regardless of where they 12:04:35
11 metric. 12:02:04	11 bought it. But, again, if I'm wrong about 12:04:38
12 Q. Do you think, though, that it's important 12:02:05	12 that, the record speaks for itself. 12:04:41
13 for your model to capture the purchaser's 12:02:11	13 Q. So the putative class, then, would include, 12:04:43
14 actual gain or loss in the real world? 12:02:17	14 for example, a Swiss person who converts 12:04:53
15 MR. SPEAR: Objection, form. 12:02:21	15 Swiss francs into Bitcoin and then uses that 12:04:55
16 A. Yeah, I believe it does. I just want to 12:02:24	16 Bitcoin to purchase XRP, correct? 12:04:59
17 also say it's not my model. I'm presenting 12:02:34	17 MR. SPEAR: Objection, calls for 12:05:04
18 that this model exists and is used and in 12:02:37	18 speculation. 12:05:06
19 the statute. I'm just explaining what's in 12:02:40	19 A. Perhaps. That's a hypothetical. It's not 12:05:06
20 the statute. 12:02:45	20 entirely unrealistic, but it's not entirely 12:05:10
21 Q. The statute is -- you quote the statute in 12:02:45	21 complete. 12:05:14
22 Paragraph 17, right? 12:02:48	22 Q. If you're applying the methodology expressed 12:05:14
23 A. Yes. 12:02:49	23 in Paragraph 20 to that purchaser, how would 12:05:17
24 Q. But Paragraph 20 is -- the formula is not 12:02:49	24 you calculate the dollar amount paid at the 12:05:21
25 in the statute? 12:02:53	25 time of purchase? 12:05:22
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1 A. The dollar value of the consideration paid. 12:05:24	1 A. You're gratuitous to my model. If there's 12:08:21
2 If the transaction was Bitcoin for XRP, it 12:05:27	2 a determination by the court that the 12:08:26
3 would be the dollar value of the XRP that 12:05:32	3 translations from form of consideration 12:08:27
4 was conveyed in exchange for the XRP. 12:05:36	4 to value of consideration take place at the 12:08:31
5 Q. Irrespective of whether the purchaser was 12:05:39	5 time of the transaction, then in your 12:08:35
6 located in a foreign country? 12:05:54	6 hypothetical they could, that would calculate 12:08:37
7 A. Correct. 12:05:57	7 as being an actual loss, it could 12:08:40
8 Q. And irrespective of whether that purchaser 12:05:58	8 hypothetically, depending on the numbers 12:08:43
9 had acquired the Bitcoin using a foreign 12:06:01	9 involved, be a loss. And that would make 12:08:44
10 currency? 12:06:04	10 some sense because over that point in time, 12:08:47
11 A. Correct. This is an American federal statute 12:06:05	11 not only did the Bitcoin -- not only was 12:08:49
12 and a California statute. Damages, I believe 12:06:14	12 the Bitcoin received not really the same 12:08:52
13 it would be expected the damages would be 12:06:19	13 as the Bitcoin paid because the Bitcoin 12:08:55
14 calculated in terms of dollars. 12:06:21	14 would have depreciated over that time and 12:08:58
15 Q. Okay. I just want to be clear. If that 12:06:22	15 this particular investor would be receiving 12:09:01
16 purchaser was using an exchange that charged 12:06:26	16 depreciated Bitcoin whereas they paid a 12:09:03
17 some sort of transaction fee, not a fee baked 12:06:29	17 higher value of Bitcoin initially, but 12:09:06
18 into the bid-ask spread, but a transaction 12:06:34	18 over that point in time XRP would have 12:09:09
19 fee, would that fee be factored into the 12:06:39	19 necessarily had to have fallen in value, 12:09:11
20 damages? 12:06:43	20 too, in terms of dollars. 12:09:13
21 MR. SPEAR: Objection, asked and 12:06:43	21 So what I want to say here is this 12:09:14
22 answered. 12:06:45	22 interpretation in your hypothetical would 12:09:16
23 A. I think ultimately that's a legal question. 12:06:45	23 be a realistic and reasonable measure of 12:09:27
24 I mean, I don't -- in the cases I've been 12:06:49	24 damages, but what I want to say is that the 12:09:30
25 involved in, if we're talking about a bid-ask 12:06:51	25 legal experts or the court or whoever is 12:09:32
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1 spread, to the extent that a bid-ask 12:06:55	1 adjudicating exactly that question about 12:09:36
2 spread represents a transaction fee, it 12:07:00	2 when the translation should take place 12:09:36
3 is included in the damage computation. I 12:07:03	3 should decide alternatively that the 12:09:39
4 don't know all the case law and statutory 12:07:08	4 translation should take place at the time 12:09:40
5 law about transaction -- about commissions, 12:07:10	5 of the settlement or of a jury verdict rather 12:09:42
6 about explicit commissions. I would just 12:07:14	6 than at the time of the transaction. That 12:09:47
7 defer to the legal experts on that. 12:07:17	7 methodology would now not be -- that 12:09:48
8 Q. Under your model, is it conceivable that 12:07:18	8 methodology would now still be common for 12:09:53
9 someone could take one Bitcoin, use it to 12:07:21	9 all class members. It would be a little bit 12:09:56
10 buy XRP, hold that XRP for a period of time, 12:07:28	10 different from the formulas in my report. 12:09:59
11 sell the XRP for one Bitcoin and suffer a 12:07:31	11 It would be easy to modify the formulas to 12:10:01
12 loss? 12:07:35	12 represent that alternative interpretation, 12:10:01
13 A. That's possible, sure. 12:07:37	13 and it would still be a common methodology 12:10:06
14 Q. How could that happen? 12:07:39	14 for all class members encompassing a legal 12:10:08
15 A. Well, the form of the consideration might 12:07:40	15 determination that the translation takes 12:10:10
16 be the same, but the value paid and the 12:07:44	16 place at a later date. 12:10:14
17 value received could be different if XRP 12:07:49	17 Q. So you're a professor of finance, right? 12:10:15
18 fell in value over that point in time, over 12:07:54	18 A. Yes. 12:10:19
19 that interval in time. 12:07:58	19 Q. And you teach courses on investment? 12:10:19
20 Q. So could it even be the case, then, that 12:08:01	20 A. Yes. 12:10:22
21 someone could take one Bitcoin, buy XRP, 12:08:06	21 Q. And you testified earlier that investment 12:10:22
22 hold the XRP for a period of time, sell the 12:08:09	22 is an area of your teaching and research, 12:10:25
23 XRP for more than one Bitcoin, 1.1 Bitcoin, 12:08:13	23 correct? 12:10:29
24 let's say, but under your model that 12:08:17	24 A. Yes. 12:10:29
25 purchaser could have a loss? 12:08:19	25 Q. So as a professor of finance that focuses 12:10:30
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1 on investment, do you think that -- what 12:10:37	1 perspective. But from the economic 12:13:22
2 is your opinion on what best captures a 12:10:43	2 perspective, if their economic position is 12:13:24
3 person's gain or loss in a sale of XRP 12:10:46	3 worse than it previously was because they 12:13:27
4 if -- strike that. Start over. 12:10:52	4 were paid in, they received back depreciated 12:13:32
5 Were you instructed to interpret 12:11:01	5 Bitcoin whereas they are worth less than 12:13:36
6 the term "consideration" in the statute as 12:11:03	6 the Bitcoins they originally paid, it sounds 12:13:39
7 the value of consideration paid? 12:11:07	7 to me like a loss. 12:13:42
8 A. Instructed by counsel? 12:11:11	8 It's also important to emphasize 12:13:53
9 Q. Instructed by counsel, yes. Was that a 12:11:12	9 that in that hypothetical, in order for that 12:13:55
10 choice? 12:11:15	10 to happen, the XRP that would have been held 12:13:58
11 MR. SPEAR: I'm a little bit -- 12:11:16	11 over that holding period also would have 12:14:02
12 communications with counsel -- 12:11:18	12 had to have fallen in dollar value. So in 12:14:05
13 MR. MICHAELSON: Usually if counsel 12:11:20	13 order for the 1.1 Bitcoins received back to 12:14:09
14 instructs an expert to follow certain 12:11:22	14 be worth less than the one Bitcoin originally 12:14:13
15 formulas, it's usually not privileged. It's 12:11:24	15 paid, over that holding period the XRP must 12:14:16
16 usually identified in the report. 12:11:27	16 also have fallen in value in dollar terms 12:14:20
17 MR. SPEAR: It is identified, but 12:11:29	17 over that holding period. 12:14:22
18 go ahead. 12:11:30	18 Q. What is the basis for your decision to 12:14:24
19 A. No. 12:11:32	19 translate all of this into U.S. dollars? 12:14:30
20 Q. Okay. So it's your choice to use the value 12:11:32	20 A. Well, every case I've -- I don't recall 12:14:33
21 of the consideration paid in these formulas 12:11:41	21 the case that I previously had been involved 12:14:39
22 presented in Paragraphs 19 and 20, right? 12:11:44	22 in where the translation was done at a 12:14:41
23 A. Yes, but I do want to emphasize that my 12:11:47	23 different point in time, but more than that, 12:14:43
24 opinion about there being a common 12:11:51	24 the statute itself says with interest 12:14:45
25 methodology would accommodate a different 12:11:53	25 thereon. In order to calculate interest 12:14:52
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1 interpretation as to what consideration 12:11:55	1 thereon, the most straightforward way to 12:14:56
2 meant. 12:11:57	2 do that would be an interpretation that 12:14:59
3 Q. Okay. But I want to explore whether that 12:11:57	3 it's the value of the consideration that 12:15:02
4 varies depending on the type of investor, 12:12:00	4 must be evaluated at the time of the 12:15:05
5 okay? So if you've got -- and I'm asking, 12:12:03	5 purchase. 12:15:09
6 you're a professor of finance and investment. 12:12:08	6 But, again, I feel a little 12:15:09
7 So if you have an investor who has converted 12:12:11	7 uncomfortable. It feels like we're 12:15:12
8 all their savings into Bitcoin and they've 12:12:14	8 straddling right up to the line of economics 12:15:12
9 been in Bitcoin since 2014 and they use one 12:12:18	9 versus law, and I'm not a legal expert. If 12:15:17
10 Bitcoin to buy XRP and they hold it and they 12:12:21	10 there's a legal determination that this 12:15:17
11 sell that XRP for 1.1 Bitcoin. 12:12:24	11 statute, that the excerpt in Paragraph 17 12:15:20
12 A. Okay. 12:12:29	12 has to be interpreted differently, I'm fine 12:15:24
13 Q. Isn't it fair to say that that purchaser of 12:12:29	13 with modifying the formula, presenting very 12:15:29
14 XRP experienced a gain? 12:12:38	14 slightly different mathematical formulas 12:15:29
15 A. Not necessarily. If the Bitcoin they 12:12:47	15 in 19 and 20, and my opinion, my conclusion 12:15:34
16 received is worth less than the Bitcoin they 12:12:50	16 in Paragraph 16 will remain absolutely 12:15:36
17 paid, they suffered a loss. 12:12:52	17 unchanged because even with that 12:15:38
18 Q. So even in the case of an investor who has 12:12:57	18 modification, it would still be a common 12:15:41
19 chosen to put all their savings into Bitcoin 12:13:01	19 damage methodology for all class members. 12:15:42
20 and uses a piece of that Bitcoin to buy XRP 12:13:06	20 Q. I'm asking for the economic opinion, not a 12:15:45
21 and then sells the XRP for more Bitcoin they 12:13:12	21 legal opinion. I'm asking for the economic 12:15:49
22 paid for, in your view, that person could 12:13:16	22 rationale for translating everything into 12:15:53
23 still have a loss? 12:13:17	23 dollars even for purchasers of XRP who 12:15:57
24 A. If you're asking a legal question, I'm not 12:13:18	24 have converted their, all their savings and 12:16:02
25 qualified to answer it from a legal 12:13:21	25 investments into virtual currencies. 12:16:07
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1	MR. SPEAR: Objection, asked and	12:16:10	1	cite are "United States." This is United	12:19:07
2	answered. Was there a question there?	12:16:11	2	States law, it's United States courts.	12:19:09
3	I'm sorry.	12:16:13	3	My understanding is that I was asked to	12:19:11
4	A. The rationale, if the question is what's	12:16:15	4	calculate dollar damages. If there's a	12:19:13
5	the rationale, the rationale is if the job	12:16:17	5	determination that all damages should be	12:19:18
6	is to calculate damages in terms of	12:16:19	6	calculated in some other currency or some	12:19:20
7	dollars, it makes most sense to calculate	12:16:21	7	other units, I can do it, I would take	12:19:26
8	consideration paid in terms of dollars,	12:16:24	8	that instruction and complete the task. It	12:19:31
9	consideration received in terms of dollars	12:16:26	9	would still be a common damage methodology	12:19:36
10	and the interest earned thereon also in	12:16:29	10	for all investors. It would be a different	12:19:39
11	terms of dollars. I mean, a common numerare,	12:16:33	11	numerare.	12:19:45
12	that's what they teach in economics school	12:16:38	12	If there's a legal determination	12:19:46
13	and graduate school. That's the purpose of	12:16:40	13	that an alternative -- the basis for my,	12:19:49
14	there being numerares, so they can do those	12:16:45	14	essentially, assumption that the task was	12:19:51
15	calculations.	12:16:47	15	to propose a formula for calculating dollar	12:19:54
16	Q. I'm just wondering why -- I'm not familiar	12:16:47	16	damages is the fact that it's United States	12:19:57
17	with the term "numerare." What is that term?	12:16:53	17	statute, United States courts and United	12:19:59
18	A. Common currency. Currency has a lot of	12:16:55	18	States company, but I realize that might be	12:20:03
19	different meanings at this table, so	12:16:58	19	straddling over the line into law rather	12:20:08
20	numerare, it's synonymous. Numerare is	12:17:02	20	than economics. And if I'm instructed by	12:20:12
21	another unit of a count for measuring value.	12:17:03	21	the legal experts or the court to do it a	12:20:14
22	You need a common unit of a count for	12:17:05	22	different way, I certainly could and it would	12:20:17
23	measuring value in order to calculate	12:17:05	23	be common using that other methodology, too.	12:20:21
24	damages. It's an American court. I think	12:17:10	24	Q. Well, let's explore that other methodology	12:20:23
25	dollars is the appropriate numerare.	12:17:12	25	for a moment. Another methodology might	12:20:28
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1	Q. Look, obviously what I'm questioning is	12:17:14	1	say if you're going into and out of XRP	12:20:35
2	whether dollars is the appropriate numerare	12:17:22	2	with Swiss francs, then what matters is	12:20:41
3	for someone who has converted their dollars	12:17:23	3	whether you gained or lost in Swiss francs.	12:20:45
4	into Bitcoin or other digital currencies	12:17:31	4	If you go into or out of XRP with Bitcoin,	12:20:47
5	and is buying and selling from those	12:17:35	5	then what matters is whether you gained	12:20:51
6	currencies. I'm looking at your report,	12:17:36	6	or lost Bitcoin. Is it your testimony that	12:20:53
7	Paragraph 17. It has the excerpt from the	12:17:43	7	that would be an application of a common	12:20:55
8	statute and the statute doesn't say U.S.	12:17:46	8	methodology?	12:20:59
9	dollars anywhere, so I'm trying to understand	12:17:49	9	A. Well, now you're specifically asking me	12:21:05
10	your basis for importing the U.S. dollars	12:17:53	10	if what you described is a common	12:21:08
11	into 17. That's what I'm trying to explore,	12:17:57	11	methodology, and that's a legal question.	12:21:10
12	even where we've got purchasers who are	12:18:08	12	That's a legal determination. As an	12:21:13
13	Swiss and using Swiss francs and not dollars.	12:18:12	13	economist, I believe I would go so far as	12:21:16
14	So as an economist -- setting aside	12:18:16	14	to say if you were dead set on proposing a	12:21:18
15	the legal determination, as an economist,	12:18:31	15	model that wasn't common, you probably could	12:21:21
16	why is dollar the right baseline for a Swiss	12:18:34	16	come up with a model that's not common.	12:21:24
17	person or someone who's converted all their	12:18:39	17	My opinion is that you certainly	12:21:27
18	assets into Bitcoin?	12:18:42	18	can come up with a better model that is	12:21:29
19	MR. SPEAR: Objection, scope.	12:18:43	19	common. I'd really have to think more	12:21:32
20	Objection, form. And objection, asked and	12:18:45	20	about -- well, I don't need to -- I don't	12:21:34
21	answered. Go ahead.	12:18:48	21	think I should be opining as to whether	12:21:37
22	A. I really think that's more of a legal	12:18:56	22	the model you described is common or not.	12:21:40
23	question than an economics question. I	12:18:58	23	That's really a legal determination, but	12:21:42
24	would point to a quote in 17. If you look	12:19:00	24	it's also not the model that I think is	12:21:45
25	at the cite, the first two words of the	12:19:04	25	the appropriate one given the statute.	12:21:47
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<p>1 Q. Do you think that how purchasers of XRP 12:21:52</p> <p>2 calculated their taxes on a gain or loss of 12:22:11</p> <p>3 a sale should factor into the determination 12:22:16</p> <p>4 into whether they had a gain or loss? 12:22:19</p> <p>5 A. Are you saying that like net of taxes 12:22:26</p> <p>6 whether there was a gain or loss or just 12:22:28</p> <p>7 whether they submitted tax forms that were 12:22:30</p> <p>8 denominated in anything besides dollars? 12:22:33</p> <p>9 Q. Take the person who bought the XRP for one 12:22:36</p> <p>10 Bitcoin and sold it for 1.1 Bitcoin. If 12:22:41</p> <p>11 they view that as a gain, would that affect 12:22:48</p> <p>12 your view of whether that person experienced 12:22:52</p> <p>13 a gain or loss? 12:22:55</p> <p>14 A. I'm not a tax accountant. I don't know 12:22:57</p> <p>15 what the appropriate tax accounting would 12:22:59</p> <p>16 be for that. 12:23:01</p> <p>17 Q. Look, I'm not asking you to opine on the 12:23:01</p> <p>18 law. I'm not asking you to opine on taxes. 12:23:05</p> <p>19 I'm asking for -- you're a professor of 12:23:13</p> <p>20 finance who focuses on investment. I assume 12:23:18</p> <p>21 that you're putting yourself and asking your 12:23:18</p> <p>22 students to put themselves in the shoes of 12:23:20</p> <p>23 investors making investment decisions all 12:23:20</p> <p>24 the time. 12:23:20</p> <p>25 A. Sure. 12:23:20</p> <p style="text-align: right;">Page 98</p>	<p>1 Q. Do you agree that crypto enthusiasts who 12:24:45</p> <p>2 are all in on virtual currencies might 12:24:51</p> <p>3 not see it that way? 12:24:54</p> <p>4 A. I can't speak to how they see it. 12:24:54</p> <p>5 Q. Turning to Paragraph 21, you say, "the 12:24:57</p> <p>6 amounts paid when the XRP units were 12:25:03</p> <p>7 purchased can be determined from trading 12:25:08</p> <p>8 records or publicly available XRP price 12:25:11</p> <p>9 records." Do you see that? 12:25:14</p> <p>10 A. Yes. 12:25:15</p> <p>11 Q. What do you mean by "trading records"? 12:25:16</p> <p>12 A. Well, documentation of what they paid, the 12:25:18</p> <p>13 form of what they paid and -- documentation 12:25:27</p> <p>14 of what they paid. 12:25:42</p> <p>15 Q. So for someone buying on an exchange, what 12:25:49</p> <p>16 form would that documentation take? 12:25:53</p> <p>17 A. It could take the form of a confirmation, 12:25:55</p> <p>18 an exchange confirmation, a broker 12:25:59</p> <p>19 confirmation, a trading confirmation. 12:26:01</p> <p>20 Q. That might show, for example, how much 12:26:03</p> <p>21 Bitcoin they paid for their XRP, right? 12:26:05</p> <p>22 A. Right. 12:26:09</p> <p>23 Q. Would it show the value of that Bitcoin in 12:26:09</p> <p>24 U.S. dollars at the time of the purchase? 12:26:17</p> <p>25 A. It could. 12:26:19</p> <p style="text-align: right;">Page 100</p>
<p>1 Q. And you're proposing here a model where 12:23:26</p> <p>2 the gain or loss that you calculate might 12:23:29</p> <p>3 differ from what the investor might think 12:23:36</p> <p>4 about. 12:23:39</p> <p>5 A. That's your opinion. That's not necessarily 12:23:43</p> <p>6 the one I share. 12:23:45</p> <p>7 Q. So my question for you, though, is if that 12:23:46</p> <p>8 investor who spends one Bitcoin to buy XRP 12:23:49</p> <p>9 and then sells that XRP for 1.1 Bitcoin, 12:23:54</p> <p>10 if they as an investor believe that they 12:23:59</p> <p>11 experienced a gain, does that factor into 12:24:01</p> <p>12 your assessment as to whether they 12:24:04</p> <p>13 experienced a gain or loss? 12:24:07</p> <p>14 A. I can't speak to any person's personal 12:24:09</p> <p>15 beliefs. I think whether they've suffered 12:24:15</p> <p>16 a gain or loss depends on the dollar value 12:24:18</p> <p>17 of what they paid and the dollar value 12:24:22</p> <p>18 of what they received. That's how I would 12:24:24</p> <p>19 think about it personally. If I bought 12:24:27</p> <p>20 XRP and paid something worth \$100 and when 12:24:28</p> <p>21 I sold the XRP I got something worth \$90, 12:24:32</p> <p>22 I would think that I suffered a loss 12:24:35</p> <p>23 over that holding period, and in that 12:24:39</p> <p>24 hypothetical, XRP would have had to have 12:24:41</p> <p>25 fallen in value. 12:24:44</p> <p style="text-align: right;">Page 99</p>	<p>1 Q. It also could not? 12:26:20</p> <p>2 A. If it didn't, then you can go to publicly 12:26:24</p> <p>3 available XRP price records to see what 12:26:30</p> <p>4 the dollar value of the XRP was at the 12:26:33</p> <p>5 time of purchase. 12:26:35</p> <p>6 Q. If that exchange -- if it's possible to 12:26:36</p> <p>7 trade U.S. dollars for Bitcoin on that 12:26:36</p> <p>8 exchange, would that exchange's U.S. dollar 12:26:46</p> <p>9 to Bitcoin exchange rate matter? 12:26:49</p> <p>10 A. It would be in the data. It would be in 12:27:00</p> <p>11 the very data you'd be looking at, how many 12:27:02</p> <p>12 dollars they paid and what XRP they received. 12:27:05</p> <p>13 Q. I think what would be in the data is what, 12:27:09</p> <p>14 for example, if it's Bitcoin, what Bitcoin 12:27:11</p> <p>15 they paid, but the Bitcoin to U.S. dollar 12:27:14</p> <p>16 exchange rate offered on that exchange 12:27:19</p> <p>17 wouldn't necessarily be on the trading 12:27:23</p> <p>18 record, right? 12:27:26</p> <p>19 MR. SPEAR: Are you talking about 12:27:26</p> <p>20 a specific trading record right now or is 12:27:27</p> <p>21 this a hypothetical? 12:27:30</p> <p>22 MR. MICHAELSON: I'm trying to 12:27:31</p> <p>23 understand, Paragraph 21 purports to lay out 12:27:32</p> <p>24 the documents that he would use to do this 12:27:35</p> <p>25 calculation, but I'm wondering where he's 12:27:37</p> <p style="text-align: right;">Page 101</p>



1	getting the exchange rate for assets used	12:27:40	1	AFTERNOON SESSION	12:29:59
2	to buy or sell XRP, those assets in U.S.	12:27:43	2	VIDEOGRAPHER: We are back on the	01:11:51
3	dollars.	12:27:49	3	record. The time is 1:12 p.m.	01:11:56
4	MR. SPEAR: Objection, asked and	12:27:50	4	BY MR. MICHAELSON:	01:12:05
5	answered. Go ahead.	12:27:51	5	Q. Thank you. Referring back to your review	01:12:06
6	A. If I were doing the damage calculation or	12:27:52	6	of expert reports in the SEC action, do you	01:12:10
7	if I was advising someone else who is doing	12:27:56	7	know Dan Fischel personally?	01:12:20
8	it, I would advise that they seek the most	12:27:58	8	A. No.	01:12:21
9	reputable exchange rate database available.	12:28:02	9	Q. Do you have a view on the quality of his	01:12:21
10	Q. Okay.	12:28:08	10	work?	01:12:26
11	A. But, again, for the implementation, I just	12:28:11	11	A. Several views on the quality of his work.	01:12:29
12	don't know if those details need to be	12:28:16	12	I think it varies from case to case.	01:12:36
13	decided. Those details weren't decided as	12:28:19	13	Q. Did you form a view as to the opinion that	01:12:40
14	of the time that I was writing this report	12:28:22	14	he wrote, issued in the SEC action?	01:12:45
15	and I don't think they need to be. They're	12:28:24	15	A. No, I have not, because I don't recall what	01:12:48
16	not -- whatever fork in the road one were	12:28:26	16	that opinion is.	01:12:51
17	to take on working out those specific	12:28:31	17	Q. And Alan Farrell, do you know him personally?	01:12:53
18	implementation details, choosing one fork	12:28:36	18	A. More professionally than personally.	01:12:56
19	over the -- one side of the fork over the	12:28:36	19	Q. You know him professionally?	01:12:59
20	other would still produce a common damage	12:28:40	20	A. Right. I've been in cases where he's been	01:13:01
21	methodology for all class members. So	12:28:42	21	involved as well.	01:13:03
22	maybe I really should have just answered I	12:28:45	22	Q. I see. Have you formed an overall view of	01:13:03
23	don't know for sure which one I would do,	12:28:47	23	the quality of his work?	01:13:06
24	which exchange rate database I would use.	12:28:50	24	A. No, just that it varies from case to case.	01:13:08
25	Q. When you refer to publicly available XRP	12:28:53	25	Q. Have you formed a view as to the quality of	01:13:11
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1	price records, what are you referring to	12:28:57	1	the report he issued in connection with	01:13:16
2	there?	12:28:59	2	the SEC action?	01:13:17
3	A. There are. Bloomberg has it, among other	12:28:59	3	A. I have not.	01:13:19
4	places. There are other databases, but	12:29:02	4	Q. Okay. You've mentioned having a calculation	01:13:20
5	Bloomberg is a good one.	12:29:07	5	of the lead plaintiff, Bradley Sostack's,	01:13:25
6	Q. Are you familiar ODL?	12:29:08	6	gain or loss in this case. Have you	01:13:30
7	A. ODL? No. Maybe I will be if you tell me	12:29:12	7	performed such a calculation?	01:13:35
8	more about it.	12:29:20	8	A. Yes.	01:13:36
9	Q. Ripple ODL, does that ring a bell?	12:29:21	9	Q. Do you know what exchange he traded XRP on?	01:13:36
10	A. What does ODL stand for?	12:29:25	10	A. Yes.	01:13:43
11	Q. It's okay.	12:29:29	11	Q. What exchange was that?	01:13:43
12	MR. MICHAELSON: I suggest we break	12:29:31	12	A. Poloniex.	01:13:45
13	for lunch.	12:29:32	13	Q. Are you familiar with the transaction fees	01:13:47
14	MR. SPEAR: Okay.	12:29:33	14	that Poloniex charges its users?	01:13:50
15	VIDEOGRAPHER: The time is 12:29.	12:29:35	15	A. No, not specific, no.	01:13:55
16	We're off the record.	12:29:44	16	Q. Do you have any understanding as to whether	01:13:59
17	(Break taken)	12:29:46	17	Poloniex's fee structure varies based on	01:14:02
18			18	the volume of transactions of the user?	01:14:07
19			19	A. I do not.	01:14:09
20			20	Q. Do you recall how you treated transaction	01:14:10
21			21	fees in connection with your calculation of	01:14:14
22			22	Mr. Sostack's damages?	01:14:16
23			23	A. I do.	01:14:19
24			24	Q. And how did you treat them?	01:14:19
25			25	A. We used the actual transaction prices, so	01:14:22
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1 if they included a bid-ask spread, the 01:14:25	1 thinks the LIFO or FIFO method is the 01:17:02
2 bid-ask spread transaction cost was included 01:14:28	2 better method, I think that's outside the 01:17:06
3 and incorporated, but I did not include 01:14:33	3 scope of his opinions, but that's the 01:17:08
4 commissions as a cost. 01:14:35	4 objection. I'm not instructing him not to 01:17:09
5 Q. When you say if a fee was included in the 01:14:39	5 answer. I'm objecting on scope grounds. 01:17:15
6 bid-ask spread, you mean that fee is 01:14:42	6 Q. Okay. When calculating Mr. Sostack's 01:17:20
7 baked into the transaction price that he 01:14:45	7 damages, do you recall whether he, whether 01:17:29
8 experiences, correct? 01:14:48	8 certain of his purchases involved Bitcoin? 01:17:35
9 A. Correct. 01:14:49	9 A. I'm sorry? 01:17:38
10 Q. Okay. Did you perform any analysis as to 01:14:50	10 Q. Did certain of his purchases involve Bitcoin? 01:17:38
11 whether, had you calculated -- let me scratch 01:14:54	11 A. Yes. 01:17:44
12 that. 01:15:02	12 Q. And certain of his transactions involved 01:17:44
13 Where a trader like Mr. Sostack 01:15:09	13 Tether? 01:17:47
14 buys, multiple buys and multiple sales, how 01:15:14	14 A. That's correct. 01:17:48
15 do you calculate gain or loss? Do you use a 01:15:18	15 Q. And what did you use to calculate the 01:17:49
16 FIFO analysis, LIFO? How do you -- 01:15:22	16 amount paid at time of purchase in those 01:17:56
17 A. In the case of Mr. Sostack, I did it both 01:15:25	17 instances where Mr. Sostack used Bitcoin 01:18:00
18 ways and it did not make any difference. 01:15:28	18 to purchase XRP? 01:18:02
19 Q. Would you agree that there are instances 01:15:31	19 A. His transaction records indicated how 01:18:04
20 where it can make a difference whether you 01:15:34	20 much Bitcoin he paid and Bloomberg data 01:18:09
21 use FIFO or LIFO? 01:15:37	21 was used to translate quantity of Bitcoin 01:18:15
22 A. Yes. 01:15:39	22 to dollars, dollar value. 01:18:19
23 Q. Would you agree that that could impact, 01:15:40	23 Q. Precisely what Bloomberg data? 01:18:22
24 depending on what methodology is picked, 01:15:51	24 A. Bloomberg provides exchange rates between 01:18:29
25 FIFO or LIFO, that some class members here 01:15:54	25 Bitcoin in dollars, and I used that data 01:18:33
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1 could be impacted favorably and others 01:15:57	1 precisely I specified as of 4:00 p.m., so 01:18:37
2 unfavorably? 01:16:02	2 end of trading day in New York. 01:18:41
3 A. It's possible. 01:16:02	3 Q. Did you know at the time what time Mr. 01:18:45
4 Q. Have you determined what methodology would 01:16:03	4 Sostack's transaction happened? 01:18:49
5 be the appropriate methodology to use here, 01:16:06	5 A. No. 01:18:51
6 FIFO or LIFO? 01:16:09	6 Q. Do you know if on the Bloomberg data, does 01:18:52
7 MR. SPEAR: Objection, scope. 01:16:11	7 it have data for every minute of the day 01:18:58
8 A. No, but I have determined that whichever 01:16:12	8 or only 4:00 p.m.? 01:19:03
9 methodology is dictated would produce a 01:16:18	9 A. I believe you can specify other times during 01:19:05
10 methodology for calculating damages that's 01:16:23	10 the day. 01:19:09
11 common for all class members. Usually 01:16:25	11 Q. And you specified four o'clock? 01:19:10
12 it's a legal determination or an agreement 01:16:28	12 A. Yes. 01:19:11
13 among the parties as to whether LIFO or 01:16:31	13 Q. Do you know if Mr. Sostack's trading records 01:19:12
14 FIFO should be used. 01:16:33	14 reflected the time of his transaction 01:19:16
15 MR. MICHAELSON: Mr. Spear, could 01:16:38	15 involving Bitcoin? 01:19:21
16 you explain the scope objection there? You 01:16:39	16 A. My recollection is that they did not, and 01:19:22
17 objected to that question based on scope, 01:16:42	17 it's fairly standard methodology applied in 01:19:27
18 and I'm trying to understand what the basis 01:16:43	18 other class action cases to use end-of-day 01:19:31
19 of that objection is. 01:16:45	19 data for these sort of purposes. 01:19:35
20 MR. SPEAR: I think he's testified 01:16:46	20 Q. And in those other cases, does the asset 01:19:37
21 a few times today like the mechanics of 01:16:48	21 trade 24 hours a day? 01:19:41
22 his methodology. If you're asking whether 01:16:50	22 A. Sometimes, yes. Bonds do, currencies do. 01:19:44
23 LIFO or FIFO would not be a classwide 01:16:54	23 Q. And would you agree that if you used the 01:19:48
24 application, it goes to the scope of the 01:16:57	24 Bitcoin-to-dollar exchange rate at the time 01:19:51
25 opinions. If you're asking him whether he 01:17:01	25 of transaction rather than at end of day 4:00 01:19:53
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1 p.m., that could affect some class members 01:19:59	1 A. I hadn't thought about it before you were 01:23:31
2 favorably and some class members unfavorably? 01:20:01	2 asking about it today, and I'm not sure 01:23:33
3 MR. SPEAR: Objection, calls for 01:20:04	3 from a legal perspective whether someone 01:23:38
4 speculation. 01:20:05	4 who's paid in XRP is considered a purchaser 01:23:41
5 A. I don't know for sure, but it's possible. 01:20:05	5 of XRP. As I sit here now, it's my first 01:23:44
6 Q. Referring to your damages models at 01:20:15	6 impression, which may change as I consider 01:23:50
7 Paragraphs 19 and 20 of your report, the 01:20:37	7 it further, but my first impression is that 01:23:52
8 first input is the dollar amount paid at 01:20:41	8 it certainly could. It would measure the 01:23:55
9 time of purchase. How would you apply 01:20:44	9 value of the XRP that was delivered with an 01:23:57
10 this methodology to someone who acquired 01:20:51	10 understanding that that's what the person 01:24:00
11 XRP as payment for their work, for example, 01:20:57	11 was getting paid. 01:24:02
12 from their employer? 01:21:01	12 Q. How would this methodology apply to someone 01:24:04
13 A. First of all, I don't know if I would. 01:21:04	13 who acquired XRP in exchange for a tangible 01:24:06
14 That seems to be a legal determination 01:21:06	14 good, like a cup of coffee? 01:24:09
15 whether that hypothetical person would be 01:21:08	15 A. You could do the same thing, look at the 01:24:20
16 a member of the class, but it's certainly 01:21:13	16 quantity of XRP and the value in terms of 01:24:21
17 theoretically possible to value the work 01:21:23	17 dollars of the XRP at the time of that 01:24:24
18 that is being paid for or just use the 01:21:25	18 transaction. 01:24:25
19 quantity of XRP that's being delivered and 01:21:33	19 Q. How would it apply to someone who acquired 01:24:37
20 a market price of the XRP at that time. 01:21:35	20 XRP pursuant to a bilateral contract 01:24:49
21 Q. Even in the case of -- even if the 01:21:39	21 providing for the exchange of XRP? 01:24:55
22 compensation, the amount of XRP that the 01:21:59	22 A. As I sit here now, I think you could do the 01:25:04
23 employee would receive was set months in 01:22:03	23 same thing. You can calculate the dollar 01:25:07
24 advance of when the employee received it, 01:22:08	24 value of the XRP that was conveyed as of the 01:25:09
25 are you proposing that you would use the 01:22:11	25 time of the conveyance. 01:25:15
Page 110	Page 112
1 value of the XRP at the time it was 01:22:13	1 Q. And if the contract were to have a 01:25:17
2 received, not when the compensation 01:22:14	2 clause that would, for example, make the 01:25:25
3 amount was set? 01:22:17	3 counterparty whole if they were to sell 01:25:30
4 A. I don't know if a person who receives a 01:22:17	4 XRP at a loss, would that be factored into 01:25:32
5 bonus or pay compensation in terms of XRP 01:22:22	5 your analysis of whether that person with 01:25:36
6 is a member of the class. It's something 01:22:29	6 XRP suffered a gain or loss? 01:25:38
7 I'd have to think about. Let me hear your 01:22:33	7 A. I don't know. I really, once you talk about 01:25:41
8 question again, please. 01:22:35	8 a particular contract, I just don't know. 01:25:44
9 Q. Well, I had asked how you would calculate 01:22:36	9 It's a hypothetical and it seems incomplete. 01:25:50
10 the amount, dollar amount paid at the time 01:22:42	10 I don't know the details of this contract to 01:25:54
11 of purchase, how you would apply that to 01:22:44	11 be able to answer that question. 01:25:56
12 someone who received XRP in exchange for 01:22:48	12 Q. Is it fair to say you would need to know 01:25:59
13 their work, and you had said that you'd 01:22:51	13 what the contract says in order to assess 01:26:01
14 look to the value in U.S. dollars of XRP 01:22:55	14 whether that purchaser of XRP suffered, 01:26:04
15 as of the time of the receipt of that 01:22:59	15 sustained a gain or loss? 01:26:07
16 compensation? 01:23:02	16 MR. SPEAR: Objection, calls for 01:26:08
17 A. That's certainly a methodology that could 01:23:03	17 speculation. 01:26:09
18 be done. I'd have to think whether that's 01:23:05	18 A. I just really don't know one way or the 01:26:10
19 the only methodology and the best 01:23:08	19 other. I might not need to know the details 01:26:14
20 methodology. I haven't made a determination 01:23:09	20 of the contract. I might need to know the 01:26:19
21 yet. I'm not even sure I would ever need 01:23:12	21 details of the contract. As I sit here, I 01:26:23
22 to do that calculation. 01:23:15	22 don't know. 01:26:28
23 Q. But it's your testimony that this methodology 01:23:16	23 Q. Is it fair to say that if a contract had 01:26:28
24 expressed here in Paragraphs 19 and 20 could 01:23:26	24 a clause that would affect whether a 01:26:32
25 apply to that situation? 01:23:30	25 purchaser would gain or lose on their sale 01:26:34
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<p>1 of XRP, that you would need to see the 01:26:38</p> <p>2 contract in order to calculate that 01:26:43</p> <p>3 purchaser's gain or loss? 01:26:46</p> <p>4 MR. SPEAR: Objection, incomplete 01:26:48</p> <p>5 hypothetical. Objection, calls for 01:26:49</p> <p>6 speculation. 01:26:51</p> <p>7 A. I really think my answer has to be I don't 01:26:52</p> <p>8 know. It can. It might not. I can imagine 01:26:59</p> <p>9 hypotheticals where it matters, the details 01:27:03</p> <p>10 of the contract, and I can imagine 01:27:04</p> <p>11 hypotheticals where it doesn't or I wouldn't. 01:27:07</p> <p>12 If the contract -- certainly it's always 01:27:15</p> <p>13 possible using publicly available data to 01:27:23</p> <p>14 calculate the value of the XRP that's being 01:27:27</p> <p>15 conveyed at a particular point in time. 01:27:30</p> <p>16 Whether there's a contract that includes 01:27:36</p> <p>17 other transactions simultaneously, like some 01:27:37</p> <p>18 sort of put option, might make a difference 01:27:41</p> <p>19 or might not in terms of measuring 01:27:45</p> <p>20 consideration paid and value received. 01:27:47</p> <p>21 Q. So referring to your formula in Paragraph 19, 01:27:51</p> <p>22 you start with a dollar amount paid at time 01:27:58</p> <p>23 of purchase, you add interest income earned 01:28:01</p> <p>24 at an appropriate interest rate and then you 01:28:06</p> <p>25 subtract dollar amount received at time of 01:28:08</p> <p style="text-align: right;">Page 114</p>	<p>1 to that situation. 01:29:16</p> <p>2 A. You calculate how much was paid for the 01:29:19</p> <p>3 XRP, not how much was paid for the option 01:29:21</p> <p>4 on the XRP. 01:29:26</p> <p>5 Q. And why is that? 01:29:27</p> <p>6 A. Because this person is buying two different 01:29:28</p> <p>7 things, XRP tokens as well as an option 01:29:31</p> <p>8 in XRP tokens. If I want to find out how 01:29:35</p> <p>9 much they're paying for the XRP tokens 01:29:39</p> <p>10 themselves, I've got to exclude how much 01:29:42</p> <p>11 they're paying for the options. 01:29:45</p> <p>12 Q. So if that purchaser were then to sell 01:29:47</p> <p>13 XRP at a loss and receives some money from 01:29:50</p> <p>14 the contractual counterparty thereafter, 01:29:54</p> <p>15 you wouldn't offset that purchaser's loss 01:29:56</p> <p>16 based on the payment they received from the 01:30:01</p> <p>17 counterparty following their sale? 01:30:03</p> <p>18 MR. SPEAR: Objection, incomplete 01:30:03</p> <p>19 hypothetical. Objection, calls for 01:30:04</p> <p>20 speculation. 01:30:06</p> <p>21 A. These seem to be unusual aberrant 01:30:07</p> <p>22 hypotheticals that might take some analysis, 01:30:11</p> <p>23 but it's not a different methodology. We're 01:30:17</p> <p>24 still calculating how much was paid and how 01:30:20</p> <p>25 much was received and the difference is the 01:30:22</p> <p style="text-align: right;">Page 116</p>
<p>1 sale, correct? 01:28:11</p> <p>2 A. Right. 01:28:12</p> <p>3 Q. What if the contract called for that seller 01:28:13</p> <p>4 to receive some additional dollar amount 01:28:15</p> <p>5 later in time -- 01:28:20</p> <p>6 MR. SPEAR: Objection. 01:28:21</p> <p>7 Q. -- would that factor into --would it be 01:28:21</p> <p>8 appropriate to factor in that subsequent 01:28:24</p> <p>9 payment into that person's gain or loss? 01:28:26</p> <p>10 MR. SPEAR: Objection, incomplete 01:28:30</p> <p>11 hypothetical. Objection, calls for 01:28:31</p> <p>12 speculation. 01:28:33</p> <p>13 A. I'm trying to mentally picture this contract 01:28:33</p> <p>14 you're describing. Can you say it again? 01:28:36</p> <p>15 Q. Yes. Assume there's a contract pursuant 01:28:42</p> <p>16 where someone buys XRP, but the contract 01:28:46</p> <p>17 provides that if they sell for a loss or a 01:28:50</p> <p>18 loss of certain magnitude, they'll be made 01:28:53</p> <p>19 whole to some degree. 01:28:55</p> <p>20 A. So this person is buying XRP and they're 01:28:58</p> <p>21 also buying a put option on the XRP. That's 01:29:02</p> <p>22 how you would analyze that from a financial 01:29:07</p> <p>23 perspective. And you're asking how would I 01:29:09</p> <p>24 calculate how much was paid for the XRP? 01:29:12</p> <p>25 Q. I'm asking how this methodology would apply 01:29:14</p> <p style="text-align: right;">Page 115</p>	<p>1 loss. If there's some unusual details of 01:30:24</p> <p>2 the transactions that might require some 01:30:30</p> <p>3 additional analysis from an economist or 01:30:34</p> <p>4 from the claims administrator, but if the 01:30:38</p> <p>5 sale is the result of the exercise of a 01:30:43</p> <p>6 put option, as I sit here now, it seems to 01:30:46</p> <p>7 me that the sale price would be the strike 01:30:49</p> <p>8 price of that put option and we would know 01:30:52</p> <p>9 how much this person received when selling 01:30:57</p> <p>10 his or her XRP. 01:31:02</p> <p>11 Q. Your formula here in Paragraph 19 purports 01:31:06</p> <p>12 to calculate damages for class members who 01:31:15</p> <p>13 purchased and later sold XRP? 01:31:18</p> <p>14 A. Right. 01:31:19</p> <p>15 Q. It sets out three inputs, the dollar amount 01:31:20</p> <p>16 paid at time of purchase, interest thereon 01:31:23</p> <p>17 and the amount received at time of sale? 01:31:27</p> <p>18 A. Right. 01:31:29</p> <p>19 Q. What I'm suggesting, I'm wondering how this 01:31:29</p> <p>20 would apply to a situation where a contract 01:31:34</p> <p>21 provided for some payment to the seller 01:31:36</p> <p>22 after the time of sale. That is not 01:31:39</p> <p>23 encompassed by this methodology, correct? 01:31:41</p> <p>24 MR. SPEAR: Objection, calls for 01:31:44</p> <p>25 speculation. Objection, incomplete 01:31:46</p> <p style="text-align: right;">Page 117</p>

1	hypothetical. Go ahead.	01:31:48	1	to the claim form, is this all the	01:34:05
2	A. So you're saying there's a contract that	01:31:49	2	compensation you received for selling this	01:34:07
3	says the person sells it and then at a later	01:31:51	3	asset or did you receive additional	01:34:09
4	date is given additional money pursuant to	01:31:55	4	compensation somewhere else in some other	01:34:11
5	a put option? Is that what you're saying?	01:31:59	5	way. I think this is the job the claims	01:34:15
6	Q. You're the one describing it as a put option.	01:32:01	6	administrators are comfortable performing	01:34:18
7	I have not described it as a put option.	01:32:03	7	and typically do.	01:34:21
8	A. Well, locking in that you can't sell for	01:32:06	8	Q. If a claims administrator did that, would	01:34:21
9	less than what you paid for it is modeled	01:32:09	9	that claims administrator be deviating from	01:34:25
10	as a put option, so I think the proceeds	01:32:12	10	the formula laid out in Paragraph 19?	01:34:27
11	from the market sale, plus the -- I would	01:32:18	11	A. Not at all. Well, only to the extent that	01:34:31
12	have to think about that. I'm not sure	01:32:25	12	it says at time of sale. So what I wrote	01:34:33
13	whether you include the amount they receive	01:32:27	13	here is what applies to the -- what you're	01:34:38
14	in the put option or not as part of the	01:32:28	14	doing is an exercise to try to look for	01:34:44
15	sales proceeds. I'd have to think about	01:32:32	15	hypotheticals that possibly don't even exist	01:34:48
16	that, but we're still trying to calculate how	01:32:33	16	that would add complexity to the formula.	01:34:53
17	much was received from the sale.	01:32:37	17	And if these hypotheticals do exist, it's	01:34:56
18	Q. Is it fair to say, though, that in order to	01:32:37	18	easy to modify this formula so it's all	01:34:59
19	apply this methodology that you put forth	01:32:40	19	common for all class members, but takes into	01:35:02
20	in Paragraph 19, we need to look at the	01:32:43	20	account very peculiar complexities such as	01:35:05
21	contract?	01:32:45	21	you received your payment two different,	01:35:08
22	MR. SPEAR: Objection, incomplete	01:32:47	22	on two different dates or multiple dates.	01:35:10
23	hypothetical, calls for speculation.	01:32:48	23	Q. What is your basis for expressing that	01:35:13
24	A. I think the trading records would suffice	01:32:50	24	this hypothetical that I'm describing is	01:35:18
25	just as they would for any other investor.	01:32:52	25	aberrant or so unusual?	01:35:20
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1	The trading records say how much he or	01:32:56	1	A. Because the whole idea of exchange trading	01:35:23
2	she received when they sold the XRP and	01:33:00	2	or trading even on the ledger is that	01:35:28
3	then how much they received pursuant to	01:33:03	3	you're trading in a fungible manner, that	01:35:32
4	the put option. I think that would be in	01:33:05	4	your trades are just like other people's	01:35:35
5	the trading records, or that could certainly	01:33:07	5	trades and they're standardized, the terms	01:35:38
6	be a claims administrator question, did you	01:33:09	6	are standardized. It's only, you know --	01:35:43
7	receive additional compensation subsequent	01:33:12	7	even over-the-counter trades are usually	01:35:47
8	pursuant to that sale. That's the kind of	01:33:16	8	standardized, but over-the-counter it's	01:35:49
9	thing claims administrators handle all the	01:33:19	9	possible to have customized features, but	01:35:52
10	time.	01:33:22	10	because they're customized, over-the-counter	01:35:58
11	Q. Isn't what your opinion here expressing	01:33:23	11	trading in a security tends to be much,	01:36:00
12	is that the claims administrator would	01:33:23	12	much lower in volume, if it exists at all,	01:36:05
13	follow this formula?	01:33:29	13	but in a customized way. Standardization	01:36:09
14	A. Right. And to measure the amount received	01:33:29	14	allows for marketplaces to handle volume,	01:36:13
15	for the sale, I would think for the vast	01:33:32	15	so the volume will predominantly be from	01:36:17
16	majority of class members would be a	01:33:37	16	standardized trades.	01:36:20
17	straightforward reading of the confirmation	01:33:38	17	Q. Do you have any basis to form a view as	01:36:22
18	ticket or the trading records for the small	01:33:42	18	to whether a use of a digital asset might	01:36:27
19	minority or one-offs that might have received	01:33:47	19	impact the frequency with which these types	01:36:33
20	compensation in a different way. That could	01:33:51	20	of bilateral agreements might exist?	01:36:37
21	be a question that the claims administrator	01:33:54	21	MR. SPEAR: Objection, form.	01:36:41
22	asked, did you receive additional	01:33:54	22	A. I didn't entirely understand your question.	01:36:44
23	compensation for the sale. It could be a	01:33:54	23	Q. You've expressed a view that -- I was	01:36:47
24	straightforward question asked by the claims	01:33:54	24	describing a contract before that had what	01:36:52
25	administrator in a questionnaire attached	01:34:02	25	you characterized as put option and you	01:36:55
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1 expressed the view that that sounds 01:36:58	1 Q. What does this exhibit reflect? 01:40:53
2 aberrant or unusual to you. So my question 01:37:00	2 A. Documents that I assembled and considered 01:40:57
3 to you is whether you have a basis to 01:37:03	3 in the course of arriving at the opinions 01:41:03
4 understand whether it would actually not 01:37:06	4 expressed in this report and writing this 01:41:06
5 be so aberrant with respect to transactions 01:37:07	5 report. 01:41:08
6 involving a digital asset that has use. 01:37:11	6 Q. Is there anything that you considered in 01:41:09
7 MR. SPEAR: Objection, form. 01:37:15	7 the course of arriving at the opinions 01:41:15
8 Objection, calls for speculation. 01:37:17	8 expressed in your report that's not reflected 01:41:19
9 A. You're saying that if the asset has some 01:37:22	9 here in Exhibit 1? 01:41:21
10 sort of use, then customized peculiar 01:37:25	10 A. I don't think so. 01:41:22
11 features of the trans -- there may be more 01:37:31	11 Q. There are two bullets here towards the bottom 01:41:23
12 frequent customized peculiar features to 01:37:34	12 that describe daily XRP price and volume 01:41:31
13 the transaction, is that the question? And 01:37:37	13 data. Can you explain what those are? 01:41:41
14 you're asking whether I agree with that or 01:37:39	14 A. These are databases of XRP price and volume 01:41:46
15 not? 01:37:41	15 data for the periods 2013 through 2018 from 01:41:47
16 Q. Yes. 01:37:42	16 two different sources, CoinMarketCap and 01:41:50
17 MR. SPEAR: Objection, scope. 01:37:43	17 CoinGecko. 01:41:57
18 Objection, calls for speculation. 01:37:53	18 Q. And you obtained that data online from those 01:41:58
19 A. What I do know is that exchange trading is 01:37:57	19 websites? 01:42:02
20 facilitated by standardization and exchange 01:38:03	20 A. I obtained that data from counsel. 01:42:03
21 trading is where volume tends to be most. 01:38:07	21 Q. Did you look at -- not on this list or 01:42:05
22 So most trading would be standardized. It's 01:38:15	22 any trading records, did you look at any 01:42:10
23 certainly possible in an over-the-counter 01:38:21	23 trading records in considering the opinion 01:42:13
24 transaction for there to be some odd 01:38:24	24 expressed in your report? 01:42:17
25 customized features. 01:38:27	25 A. I did look at trading records for Mr. Sostack 01:42:22
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1 Getting specifically to your 01:38:29	1 subsequent to writing this report. I 01:42:25
2 question, would there be more odd customized 01:38:30	2 think there was some reference to trading 01:42:29
3 features when the digital asset has other 01:38:33	3 records in the complaint itself, but beyond 01:42:31
4 uses? It's something I would have to study 01:38:36	4 that, no. 01:42:33
5 further. I just don't know as I sit here 01:38:40	5 Q. Okay. How about documents or other 01:42:33
6 now. 01:38:43	6 information concerning exchange rates between 01:42:41
7 Q. Sitting here today, do you know what 01:38:43	7 digital assets and U.S. dollar, did you look 01:42:46
8 percentage of XRP transactions occur on 01:39:15	8 at any such document or other information 01:42:51
9 exchanges as compared to the ledger or 01:39:21	9 in considering the opinions expressed in this 01:42:53
10 other sources? 01:39:24	10 report? 01:42:56
11 A. Well, I don't want to say I have no idea. 01:39:27	11 A. You mean between like Bitcoin and dollars 01:43:00
12 I do want to point out whether it's ledger 01:39:35	12 and Tether and dollars? 01:43:04
13 trading or exchange trading, it's still 01:39:37	13 Q. Correct. 01:43:06
14 going to be standardized. If it's ledger 01:39:40	14 A. I remember I was confident the data exists. 01:43:07
15 plus exchange versus over-the-counter, based 01:39:43	15 That may have been in the CoinMarket and 01:43:19
16 on economic principles, I would surmise 01:39:51	16 CoinGecko data just to satisfy my interest 01:43:22
17 that exchange and ledger is far greater than 01:39:55	17 in knowing whether that kind of data exists. 01:43:27
18 over-the-counter in terms of the number 01:40:01	18 Q. You previously testified that Bloomberg has 01:43:29
19 of trades. Beyond that, it's something I 01:40:03	19 such data? 01:43:36
20 can research. I don't have the answer to it, 01:40:08	20 A. Right, but I looked at Bloomberg after 01:43:37
21 more precise answer sitting here now. 01:40:12	21 writing the report, confirming what I 01:43:40
22 Q. If you turn to Page 8, bottom of the page, 01:40:15	22 believed to be the case when I was writing 01:43:43
23 Page 8 of your report which is Exhibit 1, 01:40:46	23 the report. 01:43:45
24 documents and other information considered. 01:40:51	24 Q. I see. So at the time you wrote the report, 01:43:45
25 A. Okay. 01:40:53	25 you at minimum had a belief that that type 01:43:48
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<p>1 of data would be available? 01:43:51</p> <p>2 A. Yes. 01:43:52</p> <p>3 Q. And you're unsure -- I don't want to put 01:43:53</p> <p>4 words in your mouth, but you're unsure as 01:43:53</p> <p>5 to whether you'd actually checked 01:43:58</p> <p>6 CoinMarketCap.com or CoinGecko.com for such 01:44:00</p> <p>7 information prior to -- 01:44:06</p> <p>8 A. I remember I was confident that I was 01:44:06</p> <p>9 right, and I was right. I don't remember 01:44:10</p> <p>10 where I got that confidence from, whether 01:44:11</p> <p>11 it was from CoinMarketCap, CoinGecko or 01:44:14</p> <p>12 any of the articles here, or just things I 01:44:18</p> <p>13 had seen previously and not specifically 01:44:21</p> <p>14 attached to this case but in the course of 01:44:24</p> <p>15 keeping abreast of the markets. 01:44:26</p> <p>16 Q. Any other documents or information that 01:44:28</p> <p>17 you considered in arriving at the report 01:44:40</p> <p>18 beyond what's listed here in Exhibit 1 and 01:44:42</p> <p>19 what we've just discussed? 01:44:44</p> <p>20 A. I don't believe so. 01:44:46</p> <p>21 Q. So you've been retained by the plaintiff 01:44:47</p> <p>22 in this case to serve as an expert, right? 01:44:53</p> <p>23 A. Yes, to provide analysis and arrive at 01:44:59</p> <p>24 conclusions based on that analysis, explain 01:45:02</p> <p>25 those conclusions to the court and you. 01:45:04</p> <p style="text-align: right;">Page 126</p>	<p>1 hourly rate for the time of your staff? 01:45:59</p> <p>2 A. That's right. 01:46:01</p> <p>3 Q. How many hours would you estimate that 01:46:01</p> <p>4 you've worked on this case so far? 01:46:03</p> <p>5 MR. SPEAR: Objection, scope. 01:46:07</p> <p>6 You're asking in relation to this report 01:46:13</p> <p>7 or for -- I mean, we also have an expert 01:46:15</p> <p>8 period coming up for -- 01:46:17</p> <p>9 MR. MICHAELSON: So far, so far in 01:46:18</p> <p>10 this case. 01:46:20</p> <p>11 MR. SPEAR: Okay. Go ahead. 01:46:20</p> <p>12 A. I don't know. I just don't recall. There 01:46:22</p> <p>13 are records for this and I can venture a 01:46:27</p> <p>14 guess. 01:46:30</p> <p>15 Q. Can you ballpark it? 01:46:30</p> <p>16 A. Prior to preparation for the deposition? 01:46:32</p> <p>17 Q. Up to today. 01:46:36</p> <p>18 A. I would guess 50 hours, in the neighborhood 01:46:38</p> <p>19 of 50 hours, but I just don't recall. And 01:46:43</p> <p>20 I just want to caveat that answer with it 01:46:45</p> <p>21 may not be precise. It's an estimate. It 01:46:48</p> <p>22 may not even be close, but it's a reasonable 01:46:57</p> <p>23 ballpark. 01:47:01</p> <p>24 Q. Broadly speaking, you receive income from 01:47:01</p> <p>25 your job as a professor? 01:47:04</p> <p style="text-align: right;">Page 128</p>
<p>1 That's the engagement. 01:45:08</p> <p>2 Q. And you state in your report that you 01:45:10</p> <p>3 provided expert analysis in more than 01:45:12</p> <p>4 150 cases, is that right? 01:45:15</p> <p>5 A. That's right. 01:45:16</p> <p>6 Q. You're being paid by the hour for the work 01:45:16</p> <p>7 that you're performing in this case? 01:45:19</p> <p>8 A. Yes. 01:45:21</p> <p>9 Q. At a rate of \$950 an hour, is that right? 01:45:21</p> <p>10 A. Correct. 01:45:26</p> <p>11 Q. Does that rate change depending on the type 01:45:26</p> <p>12 of work that you're doing? 01:45:28</p> <p>13 A. No. 01:45:29</p> <p>14 Q. Is there a different rate for appearance at 01:45:29</p> <p>15 a trial or deposition? 01:45:34</p> <p>16 A. No. I do want to point out just for 01:45:35</p> <p>17 completeness of the record that I also 01:45:38</p> <p>18 receive compensation for the people that 01:45:39</p> <p>19 work under me as the firm is paid, and 01:45:42</p> <p>20 then I receive money from the firm. So 01:45:46</p> <p>21 it's not just my hours. It's also the 01:45:50</p> <p>22 hours of the people that work for me on 01:45:52</p> <p>23 this case. 01:45:53</p> <p>24 Q. I see. The plaintiff is paying an hourly 01:45:53</p> <p>25 rate for your time and on top of that an 01:45:56</p> <p style="text-align: right;">Page 127</p>	<p>1 A. That's right. 01:47:05</p> <p>2 Q. You also receive income from your work as 01:47:06</p> <p>3 an expert witness? 01:47:09</p> <p>4 A. Yes. 01:47:10</p> <p>5 Q. More broadly, that latter category, you 01:47:11</p> <p>6 receive income through your work at 01:47:16</p> <p>7 Crowninshield, right? 01:47:18</p> <p>8 A. That's right. I own the company. 01:47:19</p> <p>9 Q. Right. 01:47:20</p> <p>10 A. Okay. 01:47:20</p> <p>11 Q. Give me a ballpark on a percentage basis 01:47:23</p> <p>12 over the last five years, what percentage of 01:47:24</p> <p>13 your income would you say has come from 01:47:27</p> <p>14 Crowninshield as compared to your teaching? 01:47:29</p> <p>15 A. It varies from year to year, but averaging 01:47:38</p> <p>16 over the last five years, approximately 01:47:41</p> <p>17 80 percent from consulting work, could be 01:47:44</p> <p>18 as high as 90 in some years, but between 80 01:47:49</p> <p>19 and 90. 01:47:53</p> <p>20 Q. Okay. So in the course of this expert work, 01:47:54</p> <p>21 you've issued reports, correct? Is that for 01:47:58</p> <p>22 testimony, correct? 01:48:02</p> <p>23 A. Conduct analysis, conduct research, supervise 01:48:04</p> <p>24 the staff, help manage the firm, right, 01:48:06</p> <p>25 write reports, offer opinions based on the 01:48:13</p> <p style="text-align: right;">Page 129</p>



1 analysis. 01:48:15	1 A. That's why I provided four years and not 01:51:27
2 Q. Has any of the cases in which you've served 01:48:16	2 five. Ten years of reports were provided 01:51:31
3 as an expert witness, has the opposing 01:48:18	3 because you asked for them. 01:51:33
4 counsel moved to disqualify you under 01:48:21	4 Q. In what case was the Daubert successful? 01:51:35
5 Daubert? 01:48:26	5 A. It was a FreddieMac securities litigation. 01:51:39
6 A. Yes. 01:48:26	6 MR. MICHAELSON: Why don't we take 01:52:14
7 Q. How many times? 01:48:26	7 a quick break and go off the record. 01:52:16
8 A. It seems to be a run-of-the-mill tactic to 01:48:30	8 VIDEOGRAPHER: The time is 1:52. 01:52:18
9 at least try, so it's very frequently. 01:48:32	9 We're off the record. 01:52:20
10 Q. Okay. And have opposing counsel ever 01:48:36	10 (Break taken) 01:52:21
11 succeeded in disqualifying you as an expert 01:48:47	11 VIDEOGRAPHER: We are back on the 02:02:57
12 under Daubert? 01:48:48	12 record. The time is 2:03. 02:03:39
13 A. Yes, once. In over 150, maybe 200 cases it 01:48:48	13 BY MR. MICHAELSON: 02:03:44
14 has happened exactly once. 01:48:55	14 Q. So, Dr. Feinstein, I want to refer you to 02:03:44
15 Q. And what year was that? 01:48:56	15 Page 4 of your report which has the 02:03:47
16 A. Apparently, it was longer ago than four 01:49:26	16 conclusion of your opinion at the very top. 02:03:49
17 years ago. I don't know how much longer 01:49:29	17 Do you see that? 02:03:52
18 ago than four years ago it was. I say that 01:49:31	18 A. Okay. Yes. 02:03:52
19 because I'm looking at my Exhibit 3 and 01:49:34	19 Q. And your opinion expresses the view that 02:03:52
20 the name of the case is not there. That 01:49:38	20 damages here can be computed using a common 02:03:58
21 can't be. Wait a minute. I guess it was 01:49:44	21 methodology for all class members, right? 02:04:01
22 longer ago than four years ago. 01:50:02	22 A. Yes. 02:04:02
23 Q. I see you're referring to Exhibit 3 of your 01:50:05	23 Q. And that class is comprised of purchasers 02:04:03
24 report? 01:50:09	24 of XRP, correct? 02:04:05
25 A. Yes. 01:50:09	25 A. The class, the proposed class is detailed 02:04:09
Page 130	Page 132
1 Q. Page 18 of the report? 01:50:10	1 in the complaint, not here. 02:04:12
2 A. Yes. 01:50:11	2 Q. What's your understanding of who the class 02:04:13
3 Q. And this is titled Testimony Provided in 01:50:11	3 members are? 02:04:16
4 the Last Four Years? 01:50:14	4 A. Purchasers and individuals who still -- no. 02:04:17
5 A. Right. 01:50:15	5 Can I see the complaint? I think it says 02:04:27
6 Q. Did you prepare this Exhibit 3? 01:50:15	6 purchasers who have suffered a loss and 02:04:29
7 MR. SPEAR: Objection to form. 01:50:22	7 purchasers who still hold XRP is what it 02:04:33
8 A. Yes and no. We keep a running updated 01:50:23	8 says. 02:04:36
9 version of this on the computers at the 01:50:28	9 Q. Okay. So it's comprised of purchasers? 02:04:36
10 office, so I added to it and other people 01:50:31	10 A. Right, right. 02:04:38
11 have added to it. 01:50:35	11 Q. Maybe not all purchasers, to be purchased 02:04:40
12 Q. Were you involved in a decision as to why 01:50:38	12 for gain you might be excluded, but -- 02:04:42
13 the testimony would be, go back only four 01:50:42	13 A. Correct. 02:04:44
14 years? 01:50:47	14 Q. But everybody who is in the putative class 02:04:45
15 MR. SPEAR: Objection to form. 01:50:47	15 is a purchaser? 02:04:49
16 A. I thought that was the rules of the federal 01:50:48	16 A. I'll take your word for it. 02:04:50
17 -- I've been told in the past that the rules 01:50:52	17 Q. You're not expressing a view in your opinion 02:04:52
18 for federal, expert reports in federal cases 01:50:54	18 on what constitutes a purchaser of XRP, 02:04:55
19 is that testimony over the last four years 01:50:59	19 correct? 02:04:58
20 is what's required, and that's what I always 01:51:01	20 A. Correct. 02:04:58
21 provide in reports in federal cases. 01:51:04	21 Q. So that could include someone who received 02:04:59
22 Q. Is it your testimony that in understanding 01:51:08	22 XRP as a gift, but maybe not, is that -- 02:05:04
23 that that's what the federal rules require 01:51:18	23 A. I can't answer that. 02:05:07
24 is why this testimony cutoff is the four-year 01:51:21	24 Q. You can't answer that. Could it include 02:05:08
25 mark? 01:51:27	25 someone who received XRP as a form of 02:05:12
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1 compensation for work? 02:05:15	1 common for all such people. 02:07:52
2 A. We just established that I'm not the one 02:05:17	2 Q. So now it's your testimony that you did 02:07:54
3 who would be determining who the purchasers 02:05:19	3 consider in preparing this methodology 02:08:00
4 are. That's really someone else's 02:05:21	4 everybody who received it in exchange for 02:08:03
5 determination. 02:05:30	5 some consideration? 02:08:06
6 Q. In preparing for this report, did you give 02:05:30	6 MR. SPEAR: Objection, misstates 02:08:08
7 thought to the range of different types of 02:05:33	7 his testimony. 02:08:09
8 people who might be purchasers -- 02:05:35	8 A. I didn't spell out a taxonomy of all the 02:08:10
9 A. Yes. 02:05:36	9 different kinds of ways there are to acquire 02:08:14
10 Q. -- in this class? 02:05:36	10 it, but I did consider that if you received 02:08:17
11 A. Yes. 02:05:37	11 it in exchange for consideration and sold 02:08:19
12 Q. And is it your view that your opinion as 02:05:37	12 it in exchange for consideration, that 02:08:22
13 to the damages methodology could be applied 02:05:40	13 there's a straightforward common way to 02:08:24
14 to any of them? 02:05:42	14 calculate your damages if you suffered a 02:08:26
15 A. Yes. 02:05:43	15 loss. 02:08:28
16 Q. Including those who received it as a gift? 02:05:43	16 Q. But with respect to, for example, someone 02:08:28
17 A. Yes. Well, yeah, I think so. I mean, I 02:05:47	17 who acquires it for a cup of coffee, how 02:08:32
18 don't think I considered when I was writing 02:05:54	18 would your methodology apply? 02:08:39
19 the report if someone who received it as a 02:05:55	19 MR. SPEAR: Objection, asked and 02:08:41
20 gift -- first, I definitely did not spend 02:05:56	20 answered. 02:08:42
21 time thinking about whether someone who 02:06:03	21 A. I did explain that before. You would value 02:08:44
22 received XRP as a gift would be considered a 02:06:05	22 what the XRP was at the time they conveyed 02:08:47
23 purchaser. I did not think about that when 02:06:09	23 it, gave it up -- rather, received it, and 02:08:53
24 I was writing the report, period. 02:06:16	24 what was the value of the XRP at the time 02:08:59
25 Q. I'm trying to understand. Is it your 02:06:19	25 that you disposed of it, or currently if you 02:09:02
Page 134	Page 136
1 testimony that your report contains a 02:06:24	1 still have it. 02:09:05
2 methodology that can be applied to all 02:06:28	2 Q. Using what exchange rate? 02:09:06
3 purchasers, but it's not within the scope 02:06:30	3 MR. SPEAR: Objection, asked and 02:09:09
4 of your report to opine on who purchasers 02:06:35	4 answered. 02:09:10
5 are or not? 02:06:39	5 Q. This is an XRP exchange rate, not a Bitcoin 02:09:11
6 A. I think that's fair to say. It's not my 02:06:43	6 exchange rate. 02:09:16
7 professional expert opinion what the law 02:06:45	7 A. Right. You can use -- Bloomberg has a 02:09:16
8 says about who would be considered a 02:06:48	8 reputable, well-regarded database of exchange 02:09:18
9 purchaser, but it is my expert opinion that 02:06:51	9 rates, daily exchange rates, even exchange 02:09:26
10 whatever the law does decide, a common 02:06:55	10 rates intraday. 02:09:30
11 methodology can be applied to calculate the 02:06:59	11 Q. Would you use the rate at 4:00 p.m. or the 02:09:33
12 damages for everyone in the class. 02:07:03	12 rate at the time of the acquisition of XRP? 02:09:38
13 Q. Is it fair to say that in preparing for the 02:07:10	13 MR. SPEAR: Objection, asked and 02:09:40
14 report, you didn't think through how the 02:07:14	14 answered. Objection, scope. Go ahead. 02:09:42
15 methodology might apply to all variations of 02:07:17	15 A. For my example I used 4:00 p.m. rates, but 02:09:43
16 purchasers? 02:07:20	16 there's a determination that one would need 02:09:46
17 MR. SPEAR: Objection, misstates 02:07:21	17 to use an intraday rate, then you could do 02:09:48
18 his testimony. 02:07:22	18 that, you could do commonly for all class 02:09:51
19 A. No, I think I did. I think I considered 02:07:29	19 members. 02:09:54
20 anybody who received it, received XRP in 02:07:34	20 Q. Did you consider before submitting this 02:09:58
21 exchange for some consideration and either 02:07:36	21 report how this methodology expressed in 02:10:01
22 held that XRP or ultimately sold it in 02:07:40	22 Paragraphs 19 and 20 would apply to 02:10:05
23 exchange for some sort of consideration, that 02:07:44	23 individuals who obtained XRP in exchange 02:10:07
24 it's possible to calculate their damages in 02:07:48	24 for their work? 02:10:10
25 a straightforward arithmetic way that's 02:07:49	25 MR. SPEAR: Objection, asked and 02:10:12
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<p>1 answered. 02:10:13</p> <p>2 A. Not specifically, but generally I would 02:10:15</p> <p>3 say yes, because I did consider -- that is 02:10:20</p> <p>4 a transaction and I did consider potential 02:10:25</p> <p>5 class members that would be receiving -- 02:10:29</p> <p>6 well, receiving XRP and then providing XRP 02:10:33</p> <p>7 in the course of some economic transaction. 02:10:39</p> <p>8 Q. Okay. So in 19 and 20, both of them, both 02:10:43</p> <p>9 formulas you start with a dollar amount paid 02:10:49</p> <p>10 at time of purchase, and you're saying that 02:10:52</p> <p>11 applies to -- I'll just strike that. So is 02:10:58</p> <p>12 it fair to say that in Paragraphs 19 -- 02:11:04</p> <p>13 strike that. 02:11:11</p> <p>14 In Paragraph 17 you've got the 02:11:13</p> <p>15 statutory formula for damages which uses 02:11:14</p> <p>16 the term "consideration." You covered 02:11:18</p> <p>17 consideration paid for such security with 02:11:22</p> <p>18 interest thereon. Do you see that? 02:11:24</p> <p>19 A. Paragraph 17? 02:11:27</p> <p>20 Q. Yes, of your report. 02:11:27</p> <p>21 A. Yes. 02:11:30</p> <p>22 Q. Do you see where it says that? 02:11:30</p> <p>23 A. Yes. 02:11:35</p> <p>24 Q. We discussed this, you're interpreting the 02:11:36</p> <p>25 term "consideration" to mean the value paid 02:11:40</p> <p style="text-align: right;">Page 138</p>	<p>1 A. Meaning that for whichever way you interpret 02:12:48</p> <p>2 the word "consideration," the conclusion 02:12:51</p> <p>3 in Paragraph 16 won't change. The formulas 02:12:53</p> <p>4 in 19 and 20 might in a very straightforward 02:12:58</p> <p>5 way, but the conclusion in Paragraph 16 would 02:13:01</p> <p>6 not change. 02:13:05</p> <p>7 Q. Okay. And with respect to how you propose 02:13:05</p> <p>8 to calculate the value of the consideration 02:13:11</p> <p>9 paid, it's your opinion that if someone 02:13:14</p> <p>10 used Bitcoin, that that should be converted 02:13:22</p> <p>11 to U.S. dollars using the Bloomberg rate as 02:13:24</p> <p>12 of 4:00 p.m. on the date of the transaction? 02:13:28</p> <p>13 MR. SPEAR: Objection, misstates 02:13:29</p> <p>14 prior testimony. 02:13:30</p> <p>15 A. I explained that you could do that and 02:13:31</p> <p>16 that would be a reasonable approach, but I 02:13:36</p> <p>17 haven't determined yet whether that's the 02:13:37</p> <p>18 only approach or best approach. That would 02:13:40</p> <p>19 certainly be a reasonable way to proceed. 02:13:42</p> <p>20 Q. What if Ethereum was used to purchase XRP? 02:13:44</p> <p>21 What would you use to translate Ethereum 02:13:49</p> <p>22 into U.S. dollars? 02:13:49</p> <p>23 A. That database exists, too, database of 02:13:53</p> <p>24 Ethereum exchange rates. 02:13:58</p> <p>25 Q. On Bloomberg? 02:13:58</p> <p style="text-align: right;">Page 140</p>
<p>1 for such security, correct? Not the form? 02:11:43</p> <p>2 A. Well, I am expressing today, here -- it's 02:11:48</p> <p>3 not in the report -- actually, it is in 02:11:53</p> <p>4 the report. I am expressing that I believe 02:11:55</p> <p>5 the best way to interpret the word 02:11:57</p> <p>6 "consideration" and the way that's most 02:11:59</p> <p>7 consistent with the statute is that it means 02:12:01</p> <p>8 the value of the consideration, not the 02:12:03</p> <p>9 form of the consideration, and I explain 02:12:05</p> <p>10 that part of that comes from the fact that 02:12:07</p> <p>11 the very next clause is "with interest 02:12:09</p> <p>12 thereon," which means that we should be 02:12:12</p> <p>13 translating the form to a value. But I 02:12:15</p> <p>14 also express -- and this is very important. 02:12:19</p> <p>15 I said it was important earlier today and 02:12:21</p> <p>16 it's important now, that if there's some 02:12:23</p> <p>17 legal determination that the word 02:12:25</p> <p>18 "consideration" should be the form of the 02:12:28</p> <p>19 consideration and not the value of the 02:12:30</p> <p>20 consideration, then that, too, would be, 02:12:31</p> <p>21 there would be one common methodology that 02:12:37</p> <p>22 can be applied for all class members given 02:12:40</p> <p>23 that interpretation, given that alternative 02:12:44</p> <p>24 interpretation. 02:12:46</p> <p>25 Q. Okay. 02:12:46</p> <p style="text-align: right;">Page 139</p>	<p>1 A. I believe so. 02:14:00</p> <p>2 Q. What if Tether was used? 02:14:00</p> <p>3 A. I know that the Tether exchange rates do 02:14:08</p> <p>4 exist on Bloomberg. I looked them up. 02:14:12</p> <p>5 Q. And what if someone used, for example, a 02:14:14</p> <p>6 foreign currency like a Swiss franc and 02:14:16</p> <p>7 went directly into XRP, then what would 02:14:21</p> <p>8 you use? 02:14:23</p> <p>9 A. Using exchange rates to convert the form 02:14:24</p> <p>10 of the consideration to the value of the 02:14:27</p> <p>11 consideration in dollars is a straightforward 02:14:29</p> <p>12 arithmetic exercise that would be common 02:14:33</p> <p>13 for all class members. 02:14:35</p> <p>14 Q. Do you have an understanding sitting here 02:14:36</p> <p>15 today of how many different types of assets 02:14:37</p> <p>16 can be transferred for XRP? 02:14:40</p> <p>17 A. Yes. 02:14:44</p> <p>18 Q. How many? 02:14:45</p> <p>19 A. It's many. That's the nature of digital 02:14:46</p> <p>20 assets, that that's also why there are 02:14:50</p> <p>21 databases that provide matrices of exchange 02:14:54</p> <p>22 rates. 02:15:01</p> <p>23 Q. Do you know if, for example, Bloomberg 02:15:01</p> <p>24 provides an exchange rate for each of the 02:15:05</p> <p>25 assets that can be used to purchase or sell 02:15:07</p> <p style="text-align: right;">Page 141</p>

<p>1 XRP? 02:15:13</p> <p>2 A. I don't know for sure. I know that the 02:15:14</p> <p>3 important ones, the common ones it does. 02:15:16</p> <p>4 I know sometimes there's an announcement 02:15:21</p> <p>5 that Bloomberg has taken on a new currency 02:15:23</p> <p>6 so that would tell me at points in time 02:15:27</p> <p>7 it might be omitting a particular currency, 02:15:28</p> <p>8 but I know that in this industry the exchange 02:15:32</p> <p>9 rate data exists. Bloomberg is a good 02:15:35</p> <p>10 source, but if something is missing from 02:15:40</p> <p>11 Bloomberg, there are other sources that can 02:15:41</p> <p>12 be used. 02:15:44</p> <p>13 Q. Do you agree that where XRP is purchased 02:15:44</p> <p>14 or sold pursuant to a bilateral contract, 02:15:50</p> <p>15 that it may be necessary to see the contract 02:15:55</p> <p>16 to apply the damages formula you set forth 02:15:57</p> <p>17 in Paragraphs 19 and 20? 02:16:00</p> <p>18 MR. SPEAR: Objection, asked and 02:16:02</p> <p>19 answered. Objection, calls for speculation. 02:16:02</p> <p>20 Objection, incomplete hypothetical. Go 02:16:05</p> <p>21 ahead. 02:16:08</p> <p>22 A. I'm really not sure. I know that this is 02:16:11</p> <p>23 the kind of detail that claims administrators 02:16:14</p> <p>24 are proficient at handling. They know what 02:16:16</p> <p>25 questions to ask and how to facilitate the 02:16:20</p> <p style="text-align: right;">Page 142</p>	<p>1 I declare under penalty of perjury that the</p> <p>2 foregoing is true and correct. Subscribed at</p> <p>3 _____, _____, this _____ day of</p> <p>4 _____, 20____.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 _____</p> <p>10 WITNESS NAME</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 144</p>
<p>1 administration of claims. That's their 02:16:24</p> <p>2 job. I wasn't asked for that level of 02:16:28</p> <p>3 detail. What I was asked to -- what I 02:16:33</p> <p>4 presented in my report is a common damage 02:16:37</p> <p>5 methodology. Some of the implementation 02:16:41</p> <p>6 might require the expertise of a claims 02:16:49</p> <p>7 administrator, but it would be following 02:16:52</p> <p>8 the model that's presented in my report. 02:16:54</p> <p>9 Q. When you refer to the model in your report, 02:16:55</p> <p>10 you're referring to Paragraphs 19 and 20? 02:16:58</p> <p>11 A. Well, 17 and -- 19 and 20 as they are or 02:17:00</p> <p>12 perhaps 19 and 20 as modified based on legal 02:17:05</p> <p>13 determinations. 02:17:09</p> <p>14 Q. Okay. I have no further questions. 02:17:09</p> <p>15 MR. SPEAR: I got nothing. 02:17:22</p> <p>16 VIDEOGRAPHER: The time is 2:17. 02:17:25</p> <p>17 We're off the record. 02:17:27</p> <p>18 (Whereupon the deposition was 02:17:29</p> <p>19 concluded at 2:17 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 143</p>	<p>1 COMMONWEALTH OF MASSACHUSETTS)</p> <p>2 SUFFOLK, SS. )</p> <p>3</p> <p>4</p> <p>5 I, Jeanette Maracas, Registered</p> <p>6 Professional Reporter and Notary Public in</p> <p>7 and for the Commonwealth of Massachusetts,</p> <p>8 do hereby certify that there came before me</p> <p>9 on the 20th day of January, 2023, at 9:41</p> <p>10 a.m., the person hereinbefore named, who</p> <p>11 was by me duly sworn to testify to the truth</p> <p>12 and nothing but the truth of his knowledge</p> <p>13 touching and concerning the matters in</p> <p>14 controversy in this cause; that he was</p> <p>15 thereupon examined upon his oath, and his</p> <p>16 examination reduced to typewriting under my</p> <p>17 direction; and that the deposition is a true</p> <p>18 record of the testimony given by the witness.</p> <p>19</p> <p>20 I further certify that I am neither</p> <p>21 attorney or counsel for, nor related to or</p> <p>22 employed by, any attorney or counsel employed</p> <p>23 by the parties hereto or financially</p> <p>24 interested in the action.</p> <p>25</p> <p>26 In witness whereof, I have hereunto</p> <p>27 set my hand this 25th day of January, 2023.</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> 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<p>718</p> <p>719</p> <p>720</p> <p>721</p> <p>722</p> <p>723</p> <p>724</p> <p>725</p> <p>726</p> <p>727</p> <p>728</p> <p>729</p> <p>730</p> <p>731</p> <p>732</p> <p>733</p> <p>734</p> <p>735</p> <p>736</p> <p>737</p> <p>738</p> <p>739</p> <p>740</p> <p>741</p> <p>742</p> <p>743</p> <p>744</p> <p>745</p> <p>746</p> <p>747</p> <p>748</p> <p>749</p> <p>750</p> <p>751</p> <p>752</p> <p>753</p> <p>754</p> <p>755</p> <p>756</p> <p>757</p> <p>758</p> <p>759</p> <p>760</p> <p>761</p> <p>762</p> <p>763</p> <p>764</p> <p>765</p> <p>766</p> <p>767</p> <p>768</p> <p>769</p> <p>770</p> <p>771</p> <p>772</p> <p>773</p> <p>774</p> <p>775</p> <p>776</p> <p>777</p> <p>778</p> <p>779</p> <p>780</p> <p>781</p> <p>782</p> <p>783</p> <p>784</p> <p>785</p> <p>786</p> <p>787</p> <p>788</p> <p>789</p> <p>790</p> <p>791</p> <p>792</p> <p>793</p> <p>794</p> <p>795</p> <p>796</p> <p>797</p> <p>798</p> <p>799</p> <p>800</p> <p>801</p> <p>802</p> <p>803</p> <p>804</p> <p>805</p> <p>806</p> <p>807</p> <p>808</p> 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<p>1 ANDREW MICHAELSON, ESQ.  2 AMICHAELSON@KSLAW.COM  3 JANUARY 25, 2023  4 RE: RIPPLE LABS, INC. LITIGATION  5 JANUARY 20, 2023, STEVEN P. FEINSTEIN, JOB NO. 5655291  6 The above-referenced transcript has been  7 completed by Veritext Legal Solutions and  8 review of the transcript is being handled as follows:  9 <input type="checkbox"/> Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext  10 to schedule a time to review the original transcript at  11 a Veritext office.  12 <input type="checkbox"/> Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF  13 Transcript - The witness should review the transcript and  14 make any necessary corrections on the errata pages included  15 below, notating the page and line number of the corrections.  16 The witness should then sign and date the errata and penalty  17 of perjury pages and return the completed pages to all  18 appearing counsel within the period of time determined at  19 the deposition or provided by the Code of Civil Procedure.  20 <input type="checkbox"/> Waiving the CA Code of Civil Procedure per Stipulation of  21 Counsel - Original transcript to be released for signature  22 as determined at the deposition.  23 <input type="checkbox"/> Signature Waived – Reading &amp; Signature was waived at the  24 time of the deposition.  25</p> <p style="text-align: right;">Page 146</p>	<p>1 RE: RIPPLE LABS, INC. LITIGATION  2 JANUARY 20, 2023, STEVEN P. FEINSTEIN, JOB NO. 5655291  3 E R R A T A S H E E T  4 PAGE____ LINE____ CHANGE____  5 _____  6 REASON_____  7 PAGE____ LINE____ CHANGE____  8 _____  9 REASON_____  10 PAGE____ LINE____ CHANGE____  11 _____  12 REASON_____  13 PAGE____ LINE____ CHANGE____  14 _____  15 REASON_____  16 PAGE____ LINE____ CHANGE____  17 _____  18 REASON_____  19 PAGE____ LINE____ CHANGE____  20 _____  21 REASON_____  22 _____  23 _____  24 WITNESS _____ Date _____  25</p> <p style="text-align: right;">Page 148</p>
<p>1 <input type="checkbox"/> Federal R&amp;S Requested (FRCP 30(e)(1)(B)) – Locked .PDF  2 Transcript - The witness should review the transcript and  3 make any necessary corrections on the errata pages included  4 below, notating the page and line number of the corrections.  5 The witness should then sign and date the errata and penalty  6 of perjury pages and return the completed pages to all  7 appearing counsel within the period of time determined at  8 the deposition or provided by the Federal Rules.  9 <input checked="" type="checkbox"/> Federal R&amp;S Not Requested - Reading &amp; Signature was not  10 requested before the completion of the deposition.  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p> <p style="text-align: right;">Page 147</p>	

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**[xrp - zoom]**

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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